

## CHAPTER 445A

### WATER CONTROLS

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## **Action Levels for Contaminated Sites**

**NAC 445A.226 Definitions.** As used in NAC 445A.226 to 445A.22755, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445A.22605 to 445A.2268, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.22605 "Action level" defined.** "Action level" means the level of concentration of a hazardous substance, hazardous waste or a regulated substance in soil, ground water or surface water that is established pursuant to NAC 445A.2272, 445A.22735 and 445A.2275 and for which corrective action may be required by the director.

(Added to NAC by Environmental Comm'n eff. 10-3-96)

**NAC 445A.2261 "Administrator" defined.** "Administrator" means the administrator of the division.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.22615 "Aquifer" defined.** "Aquifer" has the meaning ascribed to it in NAC 445A.812.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2262 "Corrective action" defined.** "Corrective action" means a permanent remedy that an owner or operator is required to take after a release of a hazardous substance, hazardous waste or a regulated substance to prevent the substance or waste from posing a threat or potential threat to public health or the environment.

(Added to NAC by Environment Comm'n, eff. 10-3-96)

**NAC 445A.22625 "Director" defined.** "Director" means the director of the state department of conservation and natural resources.

(Added to NAC by Environmental Comm'n eff. 10-3-96)

**NAC 445A.2263 "Division" defined.** "Division" means the division of environmental protection of the state department of conservation and natural resources.

(Added to NAC by Environmental Comm'n eff. 10-3-96)

**NAC 445A.22635 "Ground water" defined.** "Ground water" has the meaning ascribed to it in NAC 444.579.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2264 "Hazardous substance" defined.** "Hazardous substance" has the meaning ascribed to it in NRS 459.429.

(Added to NAC by Environmental Comm'n eff. 10-3-96)

**NAC 445A.22645 "Hazardous waste" defined.** "Hazardous waste" has the meaning ascribed to it in NAC 444.843.

(Added to NAC by Environmental Comm'n eff. 10-3-96)

**NAC 445A.2265 “Operator” defined.** “Operator” means a person in control of or having responsibility for the daily operation of a site, business or other operation where a hazardous substance, hazardous waste or a regulated substance is disposed of, used or stored.

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.22655 “Owner” defined.** “Owner” means a person who owns property where a hazardous substance, hazardous waste or a regulated substance is disposed of, used or stored.

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.2266 “Person” defined.** “Person” has the meaning ascribed to it in NRS 445A.390.

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.22665 “Regulated substance” defined.** “Regulated substance” has the meaning ascribed to it in NRS 459.448.

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.2267 “Release” defined.** “Release” has the meaning ascribed to it in NAC 445A.345.

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.22675 “Remediation standard” defined.** “Remediation standard” means the level of concentration of a hazardous substance, hazardous material or a regulated substance in soil, ground water or surface water which corrective action is designed to achieve.

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.2268 “Surface water” defined. (NRS 445A.860)** “Surface water” means all water open to the atmosphere and subject to surface runoff.

(Added to NAC by Environmental Comm’n, eff. 10-3-96; A by Bd. of Health by R088-00, 8-3-2001)

**NAC 445A.22685 Applicability.** The provisions of NAC 445A.226 to 445A.22755, inclusive, apply to any site, business or other operation where corrective action is required, unless the corrective actions is required, unless the corrective action is required at:

1. A facility for the treatment, storage or disposal of hazardous waste that is issued a permit pursuant to NRS 459.400 to 459.600, inclusive, and the corrective action is required for any violation of NAC 444.8632.

2. A disposal site, as defined in NRS 444.460, and the corrective action is required pursuant to NAC 444.7481 to 444.7499, inclusive.

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.2269 Assessment of conditions at site of facility after notification of release of pollutant.**

1. Except as otherwise provided in this section, if the owner or operator of a facility, or his designated agent, is required to give notice of a release pursuant to NAC 445A.345 to 445A.348, inclusive, the division shall require the owner or operator to conduct an assessment of the conditions at the site of the facility, including an assessment of the conditions at the site of the facility, including an assessment of the condition of the soil or water, or both, to determine the extent and magnitude of the contamination.

2. The division shall not require an owner or operator to conduct an assessment of the soil required by subsection 1 if the level of contamination of the soil does not exceed the action level established for that soil pursuant to NAC 445A.2272 because of the actions taken by the owner or operator of the facility pursuant to NAC 445A.22695.

3. An assessment conducted pursuant to subsection 1 must:

(a) Identify the relevant pathways specifically related to the site that affect public health and the environment; and

(b) Be approved by the division.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.22695 Immediate action required under certain circumstances.**

An owner or operator shall immediately take any action necessary to mitigate and abate imminent and substantial hazards to public health or safety created by the release of a hazardous substance, hazardous waste or a regulated substance.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.227 Contamination of soil: Order by director for corrective action; factors to be considered in determining whether corrective action required.**

1. Except as otherwise provided in NAC 445A.22715, the director may require an owner or operator to take corrective action if the release of a hazardous substance, hazardous waste or a regulated substance contaminates soil and the level of contamination exceeds the action level established for the soil pursuant to NAC 445A.2272.

2. In determining whether corrective action is required, the director shall consider:

(a) The depth of any ground water;

(b) The distance to irrigation wells or wells for drinking water;

(c) The type of soil that is contaminated;

(d) The annual precipitation;

(e) The type of waste or substance that was released;

(f) The extent of the contamination;

(g) The present and potential use for the land;

(h) The preferred routes of migration;

(i) The location of structures or impediments;

(j) The potential for a hazard related to fire, vapor or an explosion; and

(k) Any other information specifically related to the site which the director determines is appropriate.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.22705 Contamination of soil: Evaluation of site by owner or operator; review of evaluation by division. (NRS 445A.425)**

1. Except as otherwise provided in NAC 445A.22715, if an owner or operator is required to take corrective action pursuant to NAC 445A.227, the owner or operator may conduct an evaluation of the site, based on the risk it poses to public health and the environment, to determine the necessary remediation standards or to establish that corrective action is not necessary. Such an evaluation must be conducted using Method E1739-95, adopted by the American Society for Testing and Materials, as it exists on October 3, 1996, or an equivalent method approved by the division.

2. The division shall determine whether an evaluation complies with the requirements of Method E1739-95, or an equivalent method of testing approved by the division. The division may reject, require revisions be made to, or withdraw its concurrence with the evaluation at any time after the completion of the evaluation for the following reasons:

(a) The evaluation does not comply with the applicable requirements for conducting the evaluation;

- (b) Conditions at the site have changed; or
- (c) New information or previously unidentified information which would alter the results of the evaluation becomes available and demonstrates that the release may have a detrimental impact on public health or the environment.

3. If the division rejects, requires revisions be made to or withdraws its concurrence with an evaluation, it shall provide written notice of its determination and the reasons for its determination to the owner or operator. The owner or operator shall:

- (a) Submit a revised evaluation to the division; or
- (b) Carry out the corrective action required by the director.

4. Unless an evaluation is rejected by the division or returned to the owner or operator for revision, the director shall consider the results of the evaluation, the level of concentration of the hazardous substance, hazardous waste or regulated substance in the soil, and the points of compliance to be elements of the plan for corrective action.

5. Method E1739-95, adopted by the American Society for Testing and Materials, as it exists on October 3, 1996, is hereby adopted by reference. A copy of the method may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, at a cost of \$31.

(Added to NAC by Environmental Comm'n, eff. 10-3-96; A 10-29-97)

**NAC 445A.2271 Contamination of soil: Plan and schedule for completing corrective action.** An owner or operator who is required to take corrective action pursuant to NAC 445A.227 shall submit to the division a plan and schedule for completing the corrective action. Except as otherwise provided in NAC 445A.22715, the owner or operator shall not take any corrective action until the plan and schedule are approved by the division.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.22715 Contamination of soil: Waiver of requirements.** The director may waive the provisions of NAC 445A.227, 445A.22705 and 445A.2271 and require an owner or operator to take corrective action immediately after the release of a hazardous substance, hazardous waste or a regulated substance that contaminates soil if the release:

- 1. Has an actual or imminent impact on ground water; or
- 2. Is hazardous to public health and safety.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2272 Contamination of soil: Establishment of action levels.**

1. For the purposes of NAC 445A.227 to 445A.22715, inclusive, the action level for soil must be established at the following levels:

(a) The background concentration or volume of a hazardous substance, hazardous waste or a regulated substance set forth in the permit issued to the owner or operator by the division.

(b) The presence of petroleum substance in soil in excess of 100 milligrams per kilogram. The level of concentration must be measured using Analytical Method 8015, adopted by the Environmental Protection Agency and modified for petroleum hydrocarbons, as it exists on October 3, 1996, or an equivalent method approved by the division.



(c) If the potential for human exposure or damage to the environment from contaminated surface water or ground water is the primary pathway of concern, the presence of a hazardous substance, hazardous waste or a regulated substance in soil at the level of concentration for that substance or waste listed in the Toxicity Characteristics Leaching Rule, 40 C.F.R. Part 261.24, as it exists on October 3, 1996. The level of concentration must be measured using Analytical Method 1311, adopted by the Environmental Protection Agency, as it exists on October 3, 1996, or an equivalent method approved by the division.

(d) If inhalation, ingestion or dermal exposure is the primary pathway of concern or an applicable level of concentration is not listed in the Toxicity Characteristics Leaching Rule, the presence of a hazardous substance, hazardous waste or a regulated substance in the soil at an appropriate level of concentration that is based on the protection of public health and safety and the environment. The appropriate level of concentration must be determined by the division using the Integrated Risk Information System, adopted by the Environmental Protection Agency, as it exists on October 3, 1996, or an equivalent method chosen by the division.

2. Except as otherwise provided by this subsection, if more than one action level for soil may be established using the criteria set forth in subsection 1, the most restrictive action level must be used. In no case may the action level be more restrictive than the background concentration of the hazardous substance, hazardous waste or regulated substance.

3. The state environmental commission hereby adopts by reference:

(a) Analytical Method 8015, adopted by the Environmental Protection Agency, as it exists on October 3, 1996. A copy of the method may be obtained from the Environmental Protection Agency, at a cost of \$5.

(b) The Toxicity Characteristics Leaching Rule, 40 C.F.R. Part 261.24, as it exists on October 3, 1996. A copy of the rule may be obtained from the United States Government Printing Office, Washington, D.C. 20402, at a cost of \$28.

(c) Analytical Method 1311, adopted by the Environmental Protection Agency, as it exists on October 3, 1996. A copy of the method may be obtained from the Environmental Protection Agency, at a cost of \$5.

(d) The Integrated Risk Information System, adopted by the Environmental Protection Agency, as it exists on October 3, 1996. A copy of the system is available on-line through the INTERNET and may be obtained from an Integrated Risk Information System Representative at (301) 496-6531, free of charge.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.22725 Contamination of ground water: Order by director for corrective action; request for exemption; exception.**

1. Except as otherwise provided in this section, the director may require an owner or operator to take corrective action if the release of a hazardous substance, hazardous waste or a regulated substance contaminates ground water and the level of contamination exceeds the action level established for the ground water pursuant to NAC 445A.22735.

2. An owner or operator may submit a written request to the director for an exemption from the provisions of subsection 1. The request must be accompanied by such supporting information as the director may require. The director may grant the request if:

(a) The ground water contaminated by the release is not a source of drinking water and is not likely to be a source of drinking water because it is economically or technologically impractical to:

- (1) Recover the water for drinking because of the depth or location of the water; or
- (2) Render the water fit for human consumption; or

(b) The total concentration of dissolved solids in the ground water is more than 10,000 milligrams per liter and the ground water is not reasonably expected to be a source of drinking water.

3. The director shall not require an owner or operator to take corrective action pursuant to subsection 1 to achieve the remediation standard required by the division if the owner or operator files with the division a study which is acceptable to the division and which demonstrates that, based on a review of available technology and the prohibitive cost of the corrective action, it is not feasible to achieve the required remediation standard.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2273 Contamination of ground water: Plan and schedule for completing corrective action.** An owner or operator who is required to take corrective action pursuant to NAC 445A.22725 shall submit to the division a plan and schedule for completing the corrective action. The owner or operator shall not take any corrective action until the plan and schedule are approved by the division.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.22735 Contamination of ground water: Establishment of action levels.**

1. For the purposes of NAC 445A.22725, 445A.2273 and 445A.2274 the action level for ground water must be established at the following levels:

(a) The presence of 1/2 inch or more of a petroleum substance that is free-floating on the surface of the water of an aquifer, using a measurement accuracy of .01 feet.

(b) The presence of a hazardous substance, hazardous waste or a regulated substance in ground water at a level of concentration equal to the maximum contaminant level for that substance or waste established pursuant to the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and 40 C.F.R. Part 141, as those sections exist on October 3, 1996.

(c) A level of concentration equal to the background concentration of a hazardous substance, hazardous waste or a regulated substance, if that level of concentration is greater than the maximum contaminant level established pursuant to paragraph (b).

(d) If a maximum contaminant level has not been established for a hazardous substance, hazardous waste or a regulated substance, a level of concentration equal to:

(1) The background concentration of the waste or substance; or

(2) An appropriate level of concentration that is based on the protection of public health and safety and the environment. The appropriate level of concentration must be determined by the division using the Integrated Risk Information System, adopted by reference in NAC 445A.2272, or an equivalent method approved by the division.

2. In establishing an action level pursuant to subsection 1, the division may consider:

(a) The presence of more than one hazardous substance, hazardous waste or regulated substance in the ground water;

(b) Any potential threat the contamination may pose to sensitive areas of the environment; and

(c) Any other threat or potential threat to ground water that is specifically related to the site.

3. If more than one action level for ground water may be established using the criteria set forth in subsection 1, the most restrictive action level must be used.

4. The Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and 40 C.F.R. Part 141, as those sections exist on October 3, 1996, are hereby adopted by reference. A copy of those sections may be obtained from the United States Government Printing Office, Washington, D.C. 20402, at a cost of \$30.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2274 Contamination of ground water: Remediation standard.**  
Unless remediation of a release may be terminated pursuant to NAC 445A.22745, the remediation standard for ground water shall be deemed to be the action level of the ground water.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.22745 Contamination of ground water: Monitoring; conditions for terminating remediation of release.**

1. After any corrective action required by NAC 445A.22725 is begun, the owner or operator shall ensure that the contaminated ground water is monitored for not less than 1 year to determine the level of contamination in the water. The division shall determine the frequency of the monitoring, but in no case may the division require monitoring more frequently than once each month.

2. After any corrective action required by NAC 445A.22725 is completed, the owner or operator may terminate remediation of the release if:

(a) An assessment of the contaminated ground water is conducted and indicates that the level of contamination is consistently below the action level for that water established pursuant to NAC 445A.22735; or

(b) After the ground water is treated for not less than 1 year, the concentration of dissolved constituents in the water, measured monthly, fits a curve that is substantially linear and approaches zero slope at the final portion of the curve. The curve must be established using the following equation:

$$C = C_f + C_o e^{-kt}$$

Where: "C" means the concentration of the contaminant at "t" in micrograms per liter.

"C<sub>f</sub>" means the final concentration of the contaminant in micrograms per liter which the curve approaches asymptotically.

"C<sub>o</sub>" means the difference between the final concentration of the contaminant and the concentration of the contaminant at time zero in micrograms per liter.

"e" means the base of the natural log or 2.718.

"t" means the time measured in days.

"k" means the decay constant.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2275 Contamination of surface water.**

1. The director may require an owner or operator to take corrective action if the release of a hazardous substance, hazardous waste or a regulated substance contaminates surface water and the level of contamination exceeds the action level established for the water pursuant to subsection 2.

2. For the purposes of subsection 1, the action levels and remediation standards for surface water must conform to the standards for water quality set forth in NAC 445A.120, 445A.121, 445A.122 and 445A.144.

3. An owner or operator who is required to take corrective action pursuant to this section shall submit to the division a plan and schedule for completing the corrective action. The owner or operator shall not take any corrective action until the plan and schedule are approved by the division.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.22755 Public hearings regarding corrective action affecting more than one owner or operator.** The administrator may hold such hearings as he deems necessary to obtain public testimony regarding any corrective action required to be taken pursuant to NAC 445A.226 to 445A.2275, inclusive, which affects more than one owner or operator or members of the general public.

(Added to NAC by Environmental Comm'n eff. 10-3-96)

### **Discharge Permits**

#### **NAC 445A.228 Requirement; exemptions. (NRS 445A.425)**

1. Except as otherwise provided in subsection 2, a person shall not discharge a pollutant from a point source into any waters of this state without obtaining a permit from the department.

2. Although not exempted from complying with all other applicable laws, rules and regulations regarding pollution, the following are specifically exempted from the requirements to obtain a permit:

(a) Persons utilizing an individual sewage disposal system or other sewage disposal system that uses a soil absorption system for the treatment and disposal of domestic wastes, with accumulative flows of less than 5,000 gallons per day, providing the system is approved and is installed, operated and maintained in accordance with the rules and regulations and other requirements of the district health departments or the state board of health. This exemption does not preclude the possibility that health authorities will require permits.

(b) Except as otherwise provided in this paragraph, persons discharging pollutants into a publicly owned or privately owned sewerage system, if the owner of such sewerage system has a valid permit from the department. In such cases, the owner of the sewerage system assumes ultimate responsibility for controlling and treating the pollutants which he allows to be discharged into the system. The department may require an industrial user who discharges pollutants into a publicly owned treatment works which does not have an approved pretreatment program to obtain a permit pursuant to NAC 445A.257.

(c) Discharges of pollutants from agricultural and silvicultural activities, including, without limitation, irrigation return flow and runoff from orchards, cultivated crops, pastures, rangelands and forest lands, except that this exemption does not apply to the following:

(1) Discharges from facilities which confine animals if the facilities contain, or at any time during the previous 12 months contained, for a total of 30 days or more, any of the following types of animals at or in excess of the number listed for each type of animal:

(I) Slaughter and feeder cattle, 1,000;

(II) Mature dairy cattle (whether milkers or dry cows), 700;

(III) Swine weighing over 55 pounds, 2,500;

(IV) Horses, 500;

(V) Sheep, 10,000;

(VI) Turkeys, 55,000;

(VII) Laying hens and broilers, if the animal confinement facility has continuous overflow watering, 100,000;

(VIII) Laying hens and broilers, if the animal confinement facility has liquid manure handling systems, 30,000; or

(IX) Ducks, 5,000.

(2) Discharges from facilities which confine animals if such facility or facilities contain, or at any time during the previous 12 months contained, for a total of 30 days or more, a combination of animals such that the sum of the following numbers is 1,000 or greater: The number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(3) Discharges from production facilities for aquatic animals.

(4) Discharges of irrigation return flow (such as tailwater, tile drainage, surfaced ground water flow or bypass water) operated by public or private organizations or natural persons if the source of water is effluent from a treatment works.

(5) Discharges from any agricultural or silvicultural activity which have been identified by the administrator or the director as a significant contributor of pollution.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.2.1.1-2.2.1.1.3.5, eff. 5-2-78]—(NAC A 12-3-84; R020-99, 9-27-99)

**NAC 445A.229 Issuance of permit prohibited in certain cases.** In addition to the cases enumerated in NRS 445A.490, no permit may be issued which authorizes any discharge into any waters of the state:

1. Which the Secretary of the Army, acting through the Chief of Engineers, finds would substantially impair anchorage and navigation of navigable waters; or

2. To which the regional administrator objects in writing pursuant to § 402(d) of the Act.

[Environmental Comm'n, Water Pollution Control Reg. § 2.4.1, eff. 5-2-78; A 12-20-79; §§ 2.4.1.4 & 2.4.1.5, eff. 5-2-78]—(Substituted in revision for NAC 445.141)

**NAC 445A.230 Application for permit. (NRS 445A.425)**

1. Any person wishing to commence future discharges of pollutants must file a complete permit application on forms provided by the department, not less than 180 days in advance of the date on which the person desires to commence the discharge of pollutants, unless the department has granted permission for a later date.

2. The director:

(a) May require the submission of additional information after a permit application has been filed; and

(b) Shall ensure that if a permit application is incomplete or otherwise deficient, processing of the application is not completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency.

3. If, upon review of an application, the department determines that a permit is not required, the department shall notify the applicant in writing of this determination. The notification constitutes final action by the department on the application.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.2.2.1-2.2.2.3 & 2.2.4, eff. 5-2-78; § 3.2.1, eff. 2-26-75]—(NAC A by R020-99, 9-27-99)

**NAC 445A.231 Signatures required on application, reporting forms and discharge monitoring report. (NRS 445A.425)**

1. Except as otherwise provided in subsection 3, application and reporting forms submitted to the department must be signed by:

(a) A principal executive officer of the corporation (of at least the level of vice president) or his authorized representative who is responsible for the overall operation of the facility from which the discharge described in the application or reporting form originates.

(b) A general partner of the partnership.

(c) The proprietor of the sole proprietorship.

(d) A principal executive officer, ranking elected official or other authorized employee of the municipal, state or other public facility.

2. Each application must contain a certification by the person signing the application that he is familiar with the information provided, that to the best of his knowledge and belief the information is complete and accurate and that he has the authority to sign and execute the application.

3. A discharge monitoring report must be signed by the senior certified operator of the facility from which the discharge described in the report originates or the person directly responsible for operating the facility.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.2.3-2.2.3.5, eff. 5-2-78]—(NAC A by R020-99, 9-27-99)

**NAC 445A.232 Fees. (NRS 445A.425, 445A.430)**

1. Except as otherwise provided in subsections 2 and 7, a nonrefundable application fee must accompany each original application for a permit, each application for a modification to a permit, other than a minor modification made pursuant to NAC 445A.263, and each application to renew a permit which is submitted to or required by the director. The director shall charge the following fees:

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
DISCHARGE OF DOMESTIC WASTEWATER		
Less than 50,000 gallons daily .....	\$1,000	\$1,000
50,000 gallons or more but less than 250,000 gallons daily .....	1,500	1,500
250,000 gallons or more but less than 500,000 gallons daily .....	2,000	2,000
500,000 gallons or more but less than 1,000,000 gallons daily .....	3,000	3,000
Type of Permit Issued	Application Fee	Fee for Annual Review and Services
DISCHARGE OF DOMESTIC WASTEWATER		
1,000,000 gallons or more but less than 2,000,000 gallons daily .....	\$4,000	\$4,000
2,000,000 gallons or more but less than 5,000,000 gallons daily .....	6,000	6,000
5,000,000 gallons or more but less than 10,000,000 gallons daily .....	10,000	10,000
10,000,000 gallons or more but less than		

20,000,000 gallons daily .....	10,000	20,000
20,000,000 gallons or more but less than 40,000,000 gallons daily .....	10,000	30,000
40,000,000 gallons or more daily .....	10,000	40,000

DISCHARGE OF TREATED  
EFFLUENT FOR IRRIGATION

Less than 50,000 gallons daily .....	\$750	\$750
50,000 gallons or more but less than 250,000 gallons daily .....	1,000	1,000
250,000 gallons or more but less than 500,000 gallons daily .....	1,250	1,250
500,000 gallons or more but less than 1,000,000 gallons daily .....	1,500	1,500
1,000,000 gallons or more but less than 10,000,000 gallons daily .....	2,000	2,000
10,000,000 gallons or more but less than 20,000,000 gallons daily .....	2,500	2,500
20,000,000 gallons or more but less than 40,000,000 gallons daily .....	3,000	3,000
40,000,000 gallons or more daily .....	3,500	3,500

Type of Permit  
Issued

Application  
Fee

Fee for  
Annual  
Review and  
Services

DISCHARGE FROM REMEDIATION,  
DEWATERING, OTHER THAN A DISCHARGE  
TO GROUND WATER FROM THE  
DEWATERING OF A MINE, OR FROM A  
POWER PLANT, A MANUFACTURING OR  
FOOD PROCESSING FACILITY OR ANY  
OTHER COMMERCIAL OR INDUSTRIAL  
FACILITY

Cooling water only .....	\$2,000	\$2,000
Less than 50,000 gallons of process water daily .....	2,500	2,500
50,000 gallons or more but less than 250,000 gallons of process water daily .....	3,000	3,000
250,000 gallons or more but less than		

500,000 gallons of process water daily .....	4,000	4,000
500,000 gallons or more but less than 1,000,000 gallons of process water daily .....	5,000	5,000
1,000,000 gallons or more but less than 2,000,000 gallons of process water daily .....	6,000	6,000
2,000,000 gallons or more but less than 5,000,000 gallons of process water daily .....	8,000	8,000
5,000,000 gallons or more but less than 10,000,000 gallons of process water daily .....	10,000	10,000
10,000,000 gallons or more but less than 20,000,000 gallons of process water daily .....	10,000	20,000
20,000,000 gallons or more but less than 40,000,000 gallons of process water daily .....	10,000	30,000
40,000,000 gallons or more of process water daily .....	10,000	40,000

DISCHARGE FROM A TREATMENT  
PLANT FOR DRINKING WATER

Intermittent discharge of less than 100,000 gallons daily .....	\$500	\$500
Intermittent discharge of 100,000 gallons or more but less than 1,000,000 gallons daily .....	750	750

Type of Permit  
Issued

Application  
Fee

Fee for  
Annual  
Review and  
Services

DISCHARGE FROM A TREATMENT  
PLANT FOR DRINKING WATER

Intermittent discharge of 1,000,000 gallons or more daily .....	\$1,000	\$1,000
Routine discharge of less than 100,000 gallons daily .....	500	500
Routine discharge of 100,000 gallons or more but less than 1,000,000 gallons daily .....	750	750
Routine discharge of 1,000,000 gallons or more daily .....	1,000	1,000

DISCHARGE OF WASTEWATER  
FROM A CONCENTRATED ANIMAL  
FEEDING OPERATION



Less than 100,000 gallons daily .....	\$1,500	\$1,500
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100,000 gallons or more but less than 500,000 gallons daily .....	2,000	2,000
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500,000 gallons or more daily .....	2,500	2,500
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PERMIT FOR A CONCENTRATED  
ANIMAL FEEDING OPERATION  
THAT DOES NOT DISCHARGE  
WASTEWATER

Area of a holding facility that is less than 10 acres .....	\$1,500	\$1,500
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Area of a holding facility that is 10 acres or more but less than 20 acres .....	2,000	2,000
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Area of a holding facility that is 20 acres or more .....	2,500	2,500
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DISCHARGE FROM A FISH  
HATCHERY

Less than 500,000 gallons daily .....	\$750	\$750
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500,000 gallons or more but less than 2,500,000 gallons daily .....	1,000	1,000
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2,500,000 gallons or more daily .....	1,500	1,500
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Type of Permit Issued	Application Fee	Fee for Annual Review and Services
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OTHER PERMITTED DISCHARGES

Less than 50,000 gallons daily .....	\$1,000	\$1,000
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50,000 gallons or more but less than 250,000 gallons daily .....	1,500	1,500
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250,000 gallons or more but less than 500,000 gallons daily .....	3,000	3,000
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500,000 gallons or more but less than 1,000,000 gallons daily .....	5,000	5,000
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1,000,000 gallons or more but less than 10,000,000 gallons daily .....	10,000	10,000
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10,000,000 gallons or more but less than 35,000,000 gallons daily .....	10,000	20,000
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35,000,000 gallons or more daily .....	10,000	30,000
REUSE OF SEWAGE SLUDGE		
Less than 20,000 cubic yards per year .....	\$1,500	\$1,500
20,000 cubic yards or more per year .....	3,000	3,000
REUSE OF DOMESTIC SEPTAGE .....		
	\$1,000	\$1,000
DISCHARGE FROM A RECREATIONAL LAKE .....		
	\$5,000	\$5,000
TEMPORARY PERMIT .....	\$250	Not Applicable

2. Except as otherwise provided in this subsection and subsection 7, a nonrefundable application fee must accompany each original application for a permit and each application to renew a permit for the discharges set forth in this subsection that is submitted to or required by the director. The director shall charge the following fees:

Type of Discharge Permitted	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
DISCHARGE TO GROUND WATER FROM THE DEWATERING OF A MINE			
Cooling water only .....	\$625	\$315	\$1,000
Type of Discharge Permitted	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
DISCHARGE TO GROUND WATER FROM THE DEWATERING OF A MINE			
Less than 50,000 gallons of process water daily .....	\$625	\$315	\$1,500
50,000 gallons or more but less than 1,000,000 gallons of process water daily .....	875	440	2,000
1,000,000 gallons or more but less than 5,000,000 gallons of process water daily .....	1,000	500	2,500
5,000,000 gallons or more of process water daily .....	1,250	625	3,000
MINING			

Discharging washwater where chemicals are not added for metallurgical recovery .....	\$500	\$500	\$250
Chemically processing less than 18,250 tons per year or a pilot or testing facility.....	500	500	250
Chemically processing 18,250 tons per year or more but less than 36,500 tons per year .....	1,500	1,500	2,000
Chemically processing 36,500 tons per year or more but less than 100,000 tons per year .....	4,000	4,000	4,000
Chemically processing 100,000 tons per year or more but less than 500,000 tons per year .....	6,000	6,000	8,000
Chemically processing 500,000 tons per year or more but less than 1,000,000 tons per year .....	10,000	10,000	10,000
Type of Discharge Permitted	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services

#### MINING

Chemically processing 1,000,000 tons per year or more but less than 2,000,000 tons per year .....	\$14,000	\$14,000	\$14,000
Chemically processing 2,000,000 tons per year or more.....	20,000	20,000	20,000
Monitoring of closed facilities .....	250	250	500

#### RUNOFF OF STORM WATER

Industrial or commercial facility, including any structure, that is 5 acres to 10 acres, inclusive, in size.....	\$300	\$150	\$750
Industrial or commercial facility, including any structure, that is			

more than 10 acres but less than 25 acres in size .....	600	300	750
Industrial or commercial facility, including any structure, that is more than 25 acres in size .....	1,000	500	750
Municipality whose population is 250,000 or less.....	600	300	750
Municipality whose population is more than 250,000 .....	1,000	500	1,000

3. To determine the number of acres of a holding facility for an application fee or a fee for the annual review and services for a permit issued to a concentrated animal feeding operation that does not discharge wastewater, the director shall multiply the number of animals in the concentrated animal feeding operation by .0023.

4. An application fee or a fee for the annual review and services charged pursuant to subsection 1 must be based upon the limit of flow, in gallons per day, of the discharge authorized in the permit.

5. The application fee for a permit with a term of less than 5 years must be reduced by the director in accordance with the term of the permit, but in no case may the fee be reduced by an amount equal to more than one-third of the fee set forth in this section.

6. If required, the fee for the annual review and services must be:

(a) Submitted to the division on or before July 1 of each year; and

(b) Paid in advance for the period of review that relates to the fiscal year following payment.

7. If a storm water runoff permit is not required, the director may refund the application fee for the permit.

8. On July 1, 2002, and on July 1 of each even-numbered year thereafter, up to and including July 1, 2010, the director shall increase by 5 percent each fee for the annual review and services set forth in subsection 1. To determine the amount of each fee that is due on or after July 1, 2002, the director shall multiply the fee set forth in subsection 1 by:

(a) For the fees due on July 1, 2002, and July 1, 2003, 1.05;

(b) For the fees due on July 1, 2004, and July 1, 2005, 1.1025;

(c) For the fees due on July 1, 2006, and July 1, 2007, 1.1576;

(d) For the fees due on July 1, 2008, and July 1, 2009, 1.2155; and

(e) For the fees due on or after July 1, 2010, 1.2763.

In establishing the annual fee for the review and services pursuant to this subsection, the director shall round to the nearest dollar.

9. The director may allow a holder of a permit to pay any fee required by subsection 1 pursuant to a payment plan if the holder of the permit submits a petition to the division, on a form prescribed by the division, which demonstrates that the payment of the fee in a lump sum would cause financial hardship to the holder of the permit.

10. As used in this section:

(a) "Concentrated animal feeding operation" has the meaning ascribed to it in 40 C.F.R. § 122.23.

(b) "Domestic septage" has the meaning ascribed to it in 40 C.F. R. § 503.9.

(c) "Sewage sludge" has the meaning ascribed to it in 40 C.F.R. § 503.9.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.2.5-2.2.5.2, eff. 5-2-78]—(NAC A 12-3-84; 7-22-87; 9-1-89; 9-19-90; 9-25-90; 9-13-91; 3-27-92; 10-29-97, eff. 7-1-2001; R206-99, 1-26-2000, eff. 7-1-2001)

**NAC 445A.233 Determination of application prior to public notice.**

1. The department shall formulate and prepare tentative determinations regarding permit applications in advance of public notice of the proposed issuance or denial of the permit. The tentative determinations must include at least the following:

(a) A proposed determination to issue or deny a permit for the discharge described in the application; and

(b) If the determination proposed in paragraph (a) is to issue the permit, the following additional tentative determinations must be made:

(1) The proposed effluent limitations, identified pursuant to NAC 445A.243, for those pollutants proposed to be limited;

(2) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations, identified pursuant to NAC 445A.244; and

(3) A brief description of any other proposed special conditions, apart from those required in NAC 445A.229, 445A.243, 445A.244, 445A.245, 445A.247, 445A.256 to 445A.259, inclusive, and 445A.262, which will have a significant impact upon the discharge described in the application.

2. The director shall organize the tentative determinations prepared pursuant to subsection 1 into a draft permit.

[Environmental Comm'n, Water Pollution Control Reg. §§ 4.1.1-4.1.2, eff. 2-26-75]—  
(Substituted in revision for NAC 445.145)

**NAC 445A.234 Public notice regarding permit; contents. (NRS 445A.425)**

1. Public notice of every complete application for a discharge permit, except for a temporary permit or a permit for pretreatment discharge or the poisoning of trash fish, must be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue or deny a permit for the discharge. Procedures for the circulation of public notice must include at least the following:

(a) Notice must be circulated within the geographical area of the proposed discharge by publishing in a local newspaper or periodical or, if the local newspaper is not a daily newspaper, in a daily newspaper of general circulation; and

(b) Notice must be mailed to any person or group on the mailing list maintained by the department or upon request.

2. The director shall add the name of any person or group upon request to a mailing list to receive copies of notices for permit applications.

3. The director shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the application. All written comments submitted during the 30-day comment period must be retained by the director and considered in the formulation of his final determinations with respect to the permit application. The period for comment may be extended at the director's discretion.

4. The contents of the public notice of applications for permit must include at least the following:

(a) The name, address and phone number of the department;

(b) The name and address of each applicant;

(c) A brief description of each applicant's activities or operations which result in the discharge described in the application, for example, municipal waste treatment plant, steel manufacturing or drainage from mining activities;

(d) The name of the waterway to which each discharge is made and a short description of the location of each discharge on the waterway, indicating whether such discharge is existing or new;

(e) A statement of the tentative determination to issue or deny a permit for the discharge described in the application;

(f) A brief description of the procedures for the formulation of final determinations including the required 30-day comment period and any other means by which interested persons may influence or comment upon those determinations; and

(g) The address and phone number of the premises at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to subsection 2 of NAC 445A.233, request a copy of the fact sheet and inspect and copy relevant forms and documents.

[Environmental Comm'n, Water Pollution Control Reg. § 2.3.1, eff. 5-2-78; §§ 4.2.1-4.2.3.7, eff. 2-26-75]—(NAC A 12-3-84; R020-99, 9-27-99)

**NAC 445A.235 Notice to other governmental agencies. (NRS 445A.425)** The director shall notify other appropriate governmental agencies of each complete application for a permit, except for a temporary permit, and shall provide the agencies with an opportunity to submit their written views and recommendations. Procedures for such notification must include the following:

1. At the time of issuance of a public notice, pursuant to NAC 445A.234, transmission of a fact sheet to any other states whose waters may be affected by the issuance of a permit and, upon request, providing such states with a copy of the application and a copy of the draft permit prepared pursuant to subsection 2 of NAC 445A.233. Each affected state must be given an opportunity to submit written recommendations to the director and to the regional administrator which the director may incorporate into the permit if issued. Should the director fail to incorporate any written recommendations thus received, he shall provide to the affected state or states, and to the regional administrator, a written explanation of his reasons for failing to accept any of the written recommendations.

2. A procedure, similar to that prescribed by subsection 1, for notifying any interstate agency having water quality control authority over waters which may be affected by the issuance of a permit.

3. At the time of issuance of a public notice pursuant to NAC 445A.234, transmission of a fact sheet to the appropriate district engineer of the Army Corps of Engineers for applications involving discharges to navigable waters. A copy of any written agreement made pursuant to this subsection between the director and a district engineer must be forwarded to the regional administrator and must be made available to the public for inspection and copying.

4. A procedure for mailing copies of fact sheets of applications for permits to any other federal, state or local agency upon request and providing such agencies an opportunity to respond, comment or request a public hearing pursuant to NAC 445A.238.

5. Procedures for notice to and coordination with appropriate public health agencies for the purpose of assisting the applicant in coordinating the applicable requirements of the Act with any applicable requirements of such public health agencies.

[Environmental Comm'n, Water Pollution Control Reg. §§ 4.4-4.4.5, eff. 2-26-75]—(NAC A by R020-99, 9-27-99)

**NAC 445A.236 Fact sheets. (NRS 445A.425)**

1. For every discharge for which public notice was required pursuant to NAC 445A.234, the director shall prepare and, following the public notice, shall send upon request to any person a fact sheet with respect to the application described in the public notice. The contents of such fact sheets must include at least the following information:

(a) A sketch or detailed description of the location of the discharge described in the application;

(b) A quantitative description of the discharge described in the application which includes at least the following:

(1) The rate or frequency of the proposed discharge and, if the discharge is continuous, the average daily flow in gallons per day or million gallons per day;

(2) For thermal discharges subject to limitation under the Act, the average summer and winter temperatures in degrees Fahrenheit; and

(3) The average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under § 301, 302, 306 or 307 of the Act, 33 U.S.C. § 1311, 1312, 1316 or 1317, and regulations published thereunder;

(c) The tentative determinations required under NAC 445A.233;

(d) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards and limitations applied to the proposed discharge; and

(e) A fuller description of the procedures for the formulation of final determinations than that given in the public notice including:

(1) The 30-day comment period required by subsection 3 of NAC 445A.234;

(2) Procedures for requesting a public hearing and the nature thereof; and

(3) Any other procedures by which the public may participate in the formulation of the final determinations.

2. The director shall add the name of any person or group upon request to a mailing list to receive copies of fact sheets.

[Environmental Comm'n, Water Pollution Control Reg. §§ 4.3.1-4.3.2, eff. 2-26-75]—  
(NAC A by R020-99, 9-27-99)

#### **NAC 445A.237 Public access to information; confidentiality.**

1. The director shall ensure that any application, reporting or related forms, including the draft permits prepared pursuant to subsection 1 of NAC 445A.233, or any public comment upon those forms pursuant to subsection 3 of NAC 445A.234 are available to the public for inspection and copying. The director may also make available to the public any other records, reports, plan or information obtained by the state pursuant to its participation in the permit program.

2. The director shall protect any information, other than effluent data, contained in such forms or other records, reports or plans as confidential upon a showing by any person that such information, if made public, would divulge methods or processes entitled to protection as trade secrets of that person. If, however, the information being considered for confidential treatment is contained in any NPDES form, the director shall forward the information to the regional administrator for his concurrence in any determination of confidentiality. If the regional administrator issues a decision to the department that the information is not entitled to protection as a trade secret, the information must be made available to the public by the department.

3. Any information accorded confidential status, whether or not contained in any NPDES form, must be disclosed, upon request, to the regional administrator or his authorized representative, who shall maintain the disclosed information as confidential.

4. The director shall provide facilities for the inspection of information relating to application, reporting and permit forms and shall ensure that state employees honor requests for such inspection promptly without undue restrictions. The director shall either:

(a) Ensure that copying machines are available for a reasonable fee; or

(b) Otherwise provide for copying services so that requests for copies of nonconfidential documents may be honored promptly.

[Environmental Comm'n, Water Pollution Control Reg. §§ 4.5.1-4.5.4, eff. 2-26-75]—  
(Substituted in revision for NAC 445.149)

#### **NAC 445A.238 Request for public hearing.**

1. The director shall provide an opportunity for the applicant, any affected state, any affected interstate agency, the regional administrator or any interested agency, person or group of persons to request a public hearing with respect to a permit application.

2. The request must be filed within the 30-day period prescribed in subsection 3 of NAC 445A.234, and must indicate the interest of the person filing the request and the reasons why a hearing is warranted. The director shall hold a hearing if there is a significant public interest for holding it. Expressions of public interest such as the filing of requests for the hearing will be considered. Instances of doubt will be resolved in favor of holding a hearing.

3. Any hearing pursuant to this section must be held in the geographical area of the proposed discharge or other appropriate area, in the director's discretion. As appropriate, the director may consider related groups of permit applications.

4. Public notice for the hearing must be made at least 30 days prior to the hearing and in accordance with the requirements stated in subsection 1 of NAC 445A.234. Any person or agency which has received notice of the permit application must also receive notice of the public hearing. If a hearing is requested by an applicant for a discharge permit, upon determination by the director to hold such a hearing, the hearing must be held in accordance with chapter 233B of NRS unless waived by the applicant. The department shall notify the applicant of its intent to schedule such a hearing and the procedures to be followed.

[Environmental Comm'n, Water Pollution Control Reg. § 2.3.2, eff. 5-2-78; § 4.6, eff. 2-26-75]—(NAC A 12-3-84)—(Substituted in revision for NAC 445.150)

**NAC 445A.239 Notice of public hearings: Contents of notice.**

1. Public notice of any public hearing held pursuant to NAC 445A.070 to 445A.340, inclusive, must be circulated at least as widely as was the notice of the permit application. Notice for public hearings held under NAC 445A.238 must be:

(a) Published in at least one newspaper of general circulation within the geographical area of the discharge;

(b) Sent to all persons and government agencies which received a copy of the notice or the fact sheet for the permit application;

(c) Mailed to any person or group upon request; and

(d) Given, pursuant to paragraphs (a), (b) and (c), of this subsection, at least 30 days in advance of the hearing.

2. The contents of the public notice of any public hearing must include at least the following:

(a) Name, address and phone number of the department;

(b) Name and address of applicants;

(c) Name of the waterway to which the discharge is made and a short description of the location of each discharge to the waterway;

(d) A brief reference to the public notice issued for the permit application, including identification number and date of issuance;

(e) Information regarding the time and location for the hearing;

(f) The purpose of the hearing;

(g) A concise statement of the issues raised by the persons requesting the hearing;

(h) Address and phone number of the premises at which interested persons may obtain further information, request a copy of draft permits and fact sheets and inspect and copy application forms and related documents; and

(i) A brief description of the nature of the hearing, including the rules and procedures to be followed.

[Environmental Comm'n, Water Pollution Control Reg. §§ 4.7.1-4.7.2.9, eff. 2-26-75]—(Substituted in revision for NAC 445.151)

**NAC 445A.240 Notification of issuance or denial.**

1. If a permit is issued, the applicant must be notified in writing of the specific limitations and conditions contained in the permit. A copy of the permit issued must be attached to the notification.



2. If the department determines that a permit should not be issued, the applicant must be notified of the denial and the reasons for denial by certified mail.

3. A copy of each application for a permit and each permit which has been issued must be made available to the public.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.3.3-2.3.5, eff. 5-2-78]—  
(Substituted in revision for NAC 445.152)

**NAC 445A.241 Duration and reissuance of permits. (NRS 445A.425)**

1. The duration of permits is fixed and does not exceed 5 years. The expiration date must be recorded on each permit issued. A new application must be filed with the department to obtain renewal or modification of a permit. Applications for renewal must be filed at least 180 days prior to expiration of the permit.

2. For the reissuance of a permit, the same procedures must be followed as for the initial issuance of a permit.

3. A person who holds an expired permit and who has submitted a timely application for renewal of the permit in the manner set forth in subsection 1 may continue to conduct the permitted activity in accordance with the terms and conditions of the expired permit until the department takes final action on the application unless:

(a) The department determines that the permittee is not in substantial compliance with the terms and conditions of the expired permit or with a compliance schedule designed to bring the permittee in compliance with the terms and conditions of the expired permit;

(b) The department, as a result of an action or the failure to act of the permittee, has been unable to take final action on the application on or before the expiration date of the permit; or

(c) The permittee has submitted an application with major deficiencies or has failed to supplement properly the application in a timely manner after being informed of deficiencies.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.5.1 & 2.5.2, eff. 5-2-78]—(NAC A by R020-99, 9-27-99)

**NAC 445A.242 Transmission of issued permits to regional administrator.** The director shall transmit to the regional administrator a copy of every issued permit, immediately following issuance, along with any and all terms, conditions, requirements or documents which are a part of such permit or which affect the authorization by the permit of the discharge of pollutants.

[Environmental Comm'n, Water Pollution Control Reg. § 5.6, eff. 2-26-75]—  
(Substituted in revision for NAC 445.154)

**NAC 445A.243 Establishment of effluent limitation. (NRS 445A.425)** In establishing an effluent limitation to carry out the policy of this state set forth in NRS 445A.305, consideration must be given to, but is not limited by, the following:

1. The effect of the discharge on the receiving waters and its beneficial use.

2. The need for standards that specify by chemical, physical, biological or other characteristics the extent to which pollution by various substances will not be tolerated.

3. Standards for water quality and effluent limitations promulgated from time to time by the United States Environmental Protection Agency, including the following:

(a) Effluent limitations under §§ 301 and 302 of the Act, 33 U.S.C. §§ 1311 and 1312.

(b) Standards of performance for new sources under § 306 of the Act, 33 U.S.C. § 1316.

(c) Effluent standards, effluent prohibitions and pretreatment standards under § 307 of the Act, 33 U.S.C. § 1317.

(d) Any more stringent limitations, including those:

(1) Necessary to meet standards for water quality and treatment or schedules of compliance, established pursuant to any state law or regulation;

- (2) Necessary to meet any other federal law or regulation; or
- (3) Required to carry out any applicable standards for water quality.

Such limitations must include any legally applicable requirements necessary to carry out total maximum daily loads established pursuant to § 303(d) of the Act, 33 U.S.C. § 1303(d), and incorporated in the continuing planning process approved under § 303(e) of the Act, 33 U.S.C. § 1303(e), and any regulations and guidelines issued thereunder.

(e) Any more stringent legally applicable requirements necessary to comply with a plan approved pursuant to § 208(b) of the Act.

4. In the application of water quality standards and limitations and other legally applicable requirements pursuant to subsection 3, the director shall, for each issued NPDES permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of mass, except quantitative limitations that are not appropriately expressed in terms of mass, including, without limitation, pH, temperature and radiation.

[Environmental Comm'n, Water Pollution Control Reg. § 2.4.2, eff. 5-2-78; A 12-20-79; §§ 2.4.2.1-2.4.2.3, eff. 5-2-78; §§ 5.2.1-5.2.1.6 & 5.3, eff. 2-26-75]—(NAC A 11-1-95; R020-99, 9-27-99)

#### **NAC 445A.244 Schedules of compliance.**

1. In addition to the application of the water quality standards and limitations and other legally applicable requirements pursuant to subsection 3 of NAC 445A.243, the director shall adhere to the following procedures in establishing schedules of compliance:

(a) A permit issued for any discharge not in compliance with the requirements listed in subsection 3 of NAC 445A.243 must contain a schedule to reach compliance with those requirements. The schedule must set forth interim requirements and the dates for their achievement.

(b) Not later than 14 days following each interim date and the final date for compliance contained in the schedule, the holder of the permit shall provide the director with written notice of the holder's compliance or noncompliance with the interim or final requirement.

(c) If a holder of a permit fails or refuses to comply with an interim or final requirement in a permit, such noncompliance constitutes a violation of the permit for which the director may suspend or revoke the permit or take direct enforcement action.

2. A compliance schedule to bring an existing point source into compliance with a discharge limitation based on a water quality standard may be established in a permit for the point source if:

(a) The schedule requires compliance with the discharge limitation as soon as practicable; and

(b) The owner or operator of the point source demonstrates that the requirements of §§ 301(b) and 306 of the Act have been satisfied and that the point source cannot comply immediately with the discharge limitation through the application of existing water pollution control technology or operational changes.

[Environmental Comm'n, Water Pollution Control Reg. §§ 5.4-5.4.5, eff. 2-26-75]—(NAC A 11-1-95)

#### **NAC 445A.245 Verification of water quality.**

1. In any case, where an issued permit applies, the effluent standards and limitations described in paragraphs (a), (b) and (c) of subsection 3 of NAC 445A.243, the director shall state that the discharge authorized by the permit will not violate applicable standards for water quality and shall prepare some explicit verification of that statement. A completed fact sheet as required by NAC 445A.236 is deemed to satisfy the requirement for explicit verification.

2. In any case where an issued permit applies any more stringent effluent limitation based upon applicable standards for water quality, a waste load allocation must be prepared to ensure that the discharge authorized by the permit is consistent with applicable standards for water quality.

[Environmental Comm'n, Water Pollution Control Reg. §§ 5.2.2 & 5.2.3, eff. 2-26-75]—(Substituted in revision for NAC 445.157)

**NAC 445A.247 Entry and inspection of premises; sampling; copying of records.** The holder of the permit shall allow the director or his authorized representative, upon the presentation of his credentials:

1. To enter upon the holder's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit;
2. To have access to and copy any records required to be kept under terms and conditions of the permit;
3. To inspect any monitoring equipment or method required in the permit;
4. To sample any discharge of pollutants; or
5. To sample any influent of a holder.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.4.3.3, 2.4.3.3.3 & 2.4.3.3.4, eff. 5-2-78; A 12-20-79; §§ 2.4.3.3.1 & 2.4.3.3.2, eff. 5-2-78; § 2.4.3.3.5, eff. 10-26-79]—(Substituted in revision for NAC 445.159)

**NAC 445A.248 Cost of testing and sampling borne by discharger.** The cost of all testing and sampling as may be required and specified in a permit or order by the department must be provided and paid for by the discharger.

[Environmental Comm'n, Water Pollution Control Reg. § 2.7.2, eff. 5-2-78]—(Substituted in revision for NAC 445.160)

**NAC 445A.249 Procedures to monitor, record and report.** The director shall use procedures consistent with any national monitoring, recording and reporting requirements specified by the administrator in regulations issued pursuant to the Act.

[Environmental Comm'n, Water Pollution Control Reg. § 7.4, eff. 2-26-75]—(Substituted in revision for NAC 445.161)

**NAC 445A.250 Monitoring. (NRS 445A.425)**

1. Any discharge authorized by a permit may be subject to such monitoring requirements as may be reasonably required by the director including the installation, use and maintenance of monitoring equipment or methods, including, where appropriate, biological monitoring methods.

2. Any discharge authorized by a permit which:

- (a) Is not a minor discharge; or
- (b) The regional administrator requests, in writing, be monitored,

must be monitored.

3. Any discharge authorized by an NPDES permit which contains toxic pollutants for which an effluent standard has been established by the regional administrator pursuant to section 307(a) of the Act, must be monitored by the holder of the permit for at least the following:

(a) Flow, in gallons per day; and

(b) All of the following pollutants:

(1) Pollutants either directly or indirectly through the use of accepted correlation coefficients or equivalent measurement which are subject to reduction or elimination under the terms and conditions of the permit;

(2) Pollutants which the director finds, on the basis of information available to him, could have a significant impact on the quality of the waters of the state;

(3) Pollutants specified by the administrator, in regulations issued pursuant to the Act, as subject to monitoring as a requirement of an NPDES permit; and

(4) Any pollutants in addition to the above which the regional administrator requests, in writing, be monitored as a requirement of an NPDES permit.

4. Each effluent flow or pollutant required to be monitored pursuant to this subsection must be monitored at intervals sufficiently frequent to yield data which reasonably characterize the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels may be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels.

[Environmental Comm'n, Water Pollution Control Reg. §§ 7.1.1-7.1.3, eff. 2-26-75]—  
(NAC A by R020-99, 9-27-99)

**NAC 445A.251 Recording of results of monitoring.** The director shall specify the following recording requirements for any permit which requires monitoring of the authorized discharge:

1. The holder of the permit shall maintain records of all information resulting from any monitoring activities required of it in its permit;

2. Any records of monitoring activities and results must include for all samples:

(a) The date, exact place and time of sampling;

(b) The dates that analyses were performed;

(c) Who performed the analyses;

(d) The analytical techniques or methods used; and

(e) The results of such analyses; and

3. The holder of the permit is required to retain for a minimum of 3 years any records of monitoring activities and results, including all original strip chart recording for continuous monitoring instrumentation and all calibration and maintenance records. This period of retention must be extended during the course of any unresolved litigation regarding the discharge of pollutants by the holder or when requested by the director or regional administrator.

[Environmental Comm'n, Water Pollution Control Reg. §§ 7.2-7.2.3, eff. 2-26-75]—  
(Substituted in revision for NAC 445.163)

**NAC 445A.252 Periodic reporting of results of monitoring.** The director shall require periodic reporting, at a frequency of not less than once per year, on the proper reporting form of monitoring results obtained by a holder of a permit pursuant to monitoring requirements in its permit. The director may also require the submission of other appropriate information regarding monitoring results.

[Environmental Comm'n, Water Pollution Control Reg. § 7.3, eff. 2-26-75]—  
(Substituted in revision for NAC 445.164)

**NAC 445A.253 Disposal of pollutants into wells. (NRS 445A.425)**

1. Any disposal of pollutants into wells must be regulated to protect the public health and welfare and to prevent pollution of the ground and surface water resources of the state.

2. If an applicant for a permit proposes to dispose of pollutants into wells as part of a program to meet the proposed terms and conditions of a permit, the director shall specify additional terms and conditions in the final permit which must prohibit the proposed disposal or must control the proposed disposal in order to prevent pollution of ground and surface waters of the state and to protect the public health and welfare.

3. Any permit issued for the disposal of pollutants into wells must be issued in accordance with the procedures and requirements specified in NAC 445A.070 to 445A.340, inclusive, and 445A.810 to 445A.925, inclusive.

4. The director shall utilize in his review of any permits proposed to be issued for the disposal of pollutants into wells any policies, technical information or requirements specified by the administrator in regulations issued pursuant to the Act or in directives issued to the regional offices of the United States Environmental Protection Agency.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.9.1-2.9.4, eff. 5-2-78]—(NAC A by R020-99, 9-27-99)

**NAC 445A.254 Standards for pretreatment; adoption by reference; inspection.**

1. Any person who discharges a pollutant into any waters of this state or into a publicly owned treatment works shall comply with the appropriate standards for pretreatment and the limitations and prohibitions applicable to the type of pollutant discharged which are contained in 40 C.F.R. §§ 401.10 to 469.26, inclusive.

2. The commission adopts by reference 40 C.F.R. §§ 401.10 to 469.26, inclusive, as they exist on the effective date of this regulation. The pamphlets containing these sections are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, for the following prices:

- (a) Code of Federal Regulations, Protection of Environment, 40, Parts 400 to 424.....\$6.50
- (b) Code of Federal Regulations, Protection of Environment, 40, Part 425 to End.....\$12.00

3. Any person who discharges a pollutant into a publicly owned treatment works shall allow the director to enter the person's premises in which an effluent source is located, or to sample any discharge.

(Added to NAC by Environmental Comm'n, eff. 12-3-84)—(Substituted in revision for NAC 445.1655)

**NAC 445A.255 Discharge from publicly owned treatment works: Notice to director.**

1. If the permit is for a discharge from a publicly owned treatment works, the holder of the permit shall provide notice to the director of:

(a) Any new introduction of pollutants into the treatment works from a source which would be a new source as defined in section 306 of the Act if the source were discharging pollutants;

(b) Any new introduction of pollutants into the treatment works from a source which would be subject to section 301 of the Act if the source were discharging pollutants, except for such categories and classes of point sources or discharges as are specified by the director; and

(c) Any substantial change in the volume or character of pollutants being introduced into the treatment works at the time of issuance of the permit.

2. The notice must include information on:

(a) The quality and quantity of effluent to be introduced into the treatment works; and

(b) Any anticipated effect of the change upon the quality or quantity of effluent to be discharged from the publicly owned treatment works.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.4.3.4-2.4.3.4.3, eff. 5-2-78; A 12-20-79]—(Substituted in revision for NAC 445.166)

**NAC 445A.256 Discharge from publicly owned treatment works capable of administering pretreatment program.**

1. If the permit is for a discharge from a publicly owned treatment works capable of administering a pretreatment program as determined by the state, the holder of the permit shall require any industrial user of the treatment works to comply with the requirements of 33 U.S.C. §§ 1284(b), 1317 and 1318. The holder of the permit shall require that each industrial user subject to 33 U.S.C. § 1317 submit written notices no less often than every 9 months describing the user's progress in complying with the requirements imposed pursuant to that section.

2. As a means of ensuring that compliance, the holder shall use a system of permits or any other administrative device deemed appropriate which requires compliance by the industrial user with the pretreatment program.

[Environmental Comm'n, Water Pollution Control Reg. § 2.4.3.5, eff. 5-2-78; A 10-26-79]—(NAC A 12-3-84)—(Substituted in revision for NAC 445.167)

**NAC 445A.257 Discharge from publicly owned treatment works without pretreatment program. (NRS 445A.425)**

1. Any industrial user who discharges into a publicly owned treatment works which does not have a state approved pretreatment program may be granted a permit by the state. The division of environmental protection shall administer the program of pretreatment for any publicly owned treatment works that does not have a pretreatment program and shall ensure the compliance of each user of the program with the requirements of 33 U.S.C. §§ 1284(b), 1317 and 1318 and 40 C.F.R. §§ 401.10 et seq.

2. The division of environmental protection of the state department of conservation and natural resources shall administer the pretreatment program for any publicly owned treatment works which does not have a state approved pretreatment program and ensure compliance by any industrial user, subject to the pretreatment program with the requirements of sections 204(b), 307 and 308 of the Act, 33 U.S.C. §§ 1284(b), 1317 and 1318, and any regulations adopted thereunder.

[Environmental Comm'n, Water Pollution Control Reg. § 2.4.3.5.1, eff. 10-26-79; A 12-20-79]—(NAC A 12-3-84; R020-99, 9-27-99)

**NAC 445A.258 Notice of changes in discharges of pollutants; expansion of facilities, increase in production or modification of process.**

1. All discharges authorized by the permit must be consistent with the terms and conditions of the permit. Facility expansions, production increases or process modifications which result in any new or increased discharges of pollutants must be reported by submitting a new permit application or, if the discharge does not violate effluent limitations specified in the permit, by submission to the director a notice of new or increased discharges of pollutants.

2. The discharge of any pollutant not identified and authorized by the permit or the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit constitutes a violation of the terms and conditions of the permit.

[Environmental Comm'n, Water Pollution Control Reg. § 2.4.3.1, eff. 5-2-78; A 12-20-79]—(Substituted in revision for NAC 445.169)

**NAC 445A.259 Maintenance of facilities required.** The holder of the permit shall at all times maintain in good working order and operate as efficiently as possible any facilities or systems of control installed by the holder to achieve compliance with the terms and conditions of the permit.

[Environmental Comm'n, Water Pollution Control Reg. § 2.4.3.6, eff. 5-2-78]—(Substituted in revision for NAC 445.170)

**NAC 445A.260 Emergency powers of director. (NRS 445A.425)** In accordance with the powers granted in NRS 33.010, subsection 1 of NRS 445A.445 and NRS 445A.675 and 445A.685 to 445A.705, inclusive, the director may take any appropriate action authorized under the law against a pollution source or any combination of sources which the director has evidence is presenting an imminent and substantial endangerment to the health and welfare of persons, where such endangerment is to the livelihood of such persons.

[Environmental Comm'n, Water Pollution Control Reg. § 2.10.1, eff. 5-2-78]—(NAC A by R020-99, 9-27-99)

**NAC 445A.261 Modification, suspension, revocation of permit: Grounds. (NRS 445A.425)** The permit may be modified, suspended or revoked in whole or in part for cause including, but not limited to, the following:

1. A violation of any term or condition of the permit.
2. Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.
3. A change in conditions or the existence of a condition, which requires either a temporary or permanent reduction or an elimination of the permitted activity. Any such revocation, modification or suspension is effective no later than 30 days after the holder of the permit receives written notice, issued by the director, of the facts or conduct warranting such action.
4. A determination by the department that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by modifying, suspending or revoking the permit.
5. Material and substantial alterations or additions to the permitted facility or activity that occurred after the permit was issued which justify the application of new permit conditions or permit conditions that differ from the permit conditions in the existing permit.
6. The department receives new information which was not available at the time the permit was issued that would have justified the application of different conditions of the permit.
7. The standards or regulations on which the permit was based have changed.
8. The department receives notification of a proposed transfer of the permit.
9. A demonstration by any interested person that factors relating to an industrial user are fundamentally different from the factors considered during development of a categorical pretreatment standard applicable to that user. The demonstration must be made in accordance with 40 C.F.R. § 403.13.
10. A demonstration by any interested person that a publicly owned treatment works consistently removes a pollutant for which a categorical pretreatment standard has been established. The demonstration must be in accordance with 40 C.F.R. § 403.7.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.4.3.2-2.4.3.2.3, eff. 5-2-78; A 12-20-79; §§ 2.4.3.2.4 & 2.4.3.2.5, eff. 12-20-79]—(NAC A by R020-99, 9-27-99)

**NAC 445A.262 Modification of permit to meet toxic effluent standard.** If a toxic effluent standard or prohibition (including any schedule of compliance specified in the effluent standard or prohibition) is established under section 307(a) of the Act for a toxic pollutant which is present in the discharge of the holder of the permit and the standard or prohibition is more stringent than any limitation upon the pollutant in the permit, the director shall revise or modify the permit in accordance with the toxic effluent standard or prohibition and so notify the holder.

[Environmental Comm'n, Water Pollution Control Reg. § 2.4.3.7, eff. 5-2-78; A 12-20-79]—(Substituted in revision for NAC 445.173)

**NAC 445A.263 Modification, suspension or revocation of permit: Procedure. (NRS 445A.425)**

1. Except as otherwise provided in this section, the director may, after notice and opportunity for a public hearing, modify, suspend or revoke any permit in whole or in part during its term for cause, including, but not limited to, the causes listed in NAC 445A.261, or for failure or refusal of the holder of the permit to carry out the requirements of NAC 445A.247.
2. The director may, upon the request of the holder of the permit, modify a schedule of compliance in an issued permit if:

(a) He determines good cause, including, without limitation, an act of God, or a strike, flood, materials shortage or any other event over which the holder has little or no control, exists for the modification; and

(b) Within 30 days after receipt of notice from the director, the regional administrator does not object in writing.

3. The director may, upon request of the holder of a permit, modify or revoke and reissue a permit to identify a new holder of the permit and incorporate such other requirements as necessary if:

(a) The current holder of the permit notifies the department at least 30 days before the proposed date of the transfer; and

(b) The notice provided pursuant to paragraph (a) includes, without limitation, a written agreement between the existing and new holders of the permit containing a specific date for transfer of the permit responsibility, coverage and liability.

4. With the consent of the holder of the permit and without public notice, the director may make minor modifications to a permit to:

(a) Correct typographical errors;

(b) Clarify the language of the permit;

(c) Require more frequent monitoring or reporting by the holder of the permit;

(d) Change an interim compliance date;

(e) Allow for a change in ownership or operational control of a facility if the department determines that no other change in the permit is necessary and a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new holders of the permit has been submitted to the department;

(f) Change the construction schedule for a discharger which is a new source if such a change does not affect an obligation of the discharger to have all pollution control equipment installed and in operation before discharge;

(g) Delete a point source outfall when the discharge from that outfall is terminated and

does not result in discharge of pollutants from other outfalls except in accordance with permit limits; or

(h) Reduce the limit of flow, in gallons per day, of the discharge authorized in the permit.

5. The director may reissue a permit that has been revoked and may require an updated application from the holder of the revoked permit.

6. If a permit is to be modified, only the conditions that are subject to modification may be considered or affected by the modification. If a permit is to be revoked and reissued, the entire permit may be considered and is subject to revision.

7. A person aggrieved by the modification, suspension or revocation of a permit may file notice of appeal with the commission within 10 days after the date of notice of action of the department, except as otherwise provided by law.

[Environmental Comm'n, Water Pollution Control Reg. §§ 2.8.1-2.8.3, eff. 5-2-78]—  
(NAC A by R020-99, 9-27-99; R206-99, 1-26-2000)



## General Permits

**NAC 445A.266 Issuance of permit; notice of intent to engage in activity; location of facility approved to operate under permit; requirements for discharge. (NRS 445A.425, 445A.465)**

1. A general permit may be issued for:
  - (a) A discharge;
  - (b) The reuse or ultimate disposal of treated wastewater and sludge; or
  - (c) Rolling stock for work in waters of this state, including, but not limited to, dredging or filling, bank stabilization or restoration, channel clearance, construction of irrigation diversions or pipe crossings, and the clearance of vegetation, debris or temporary obstructions.
2. The department will process a notice of intent to engage in an activity for which a general permit has been issued pursuant to this section not later than 60 days after the date on which the department receives the completed notice of intent and the required fees, unless the administrator of the division determines that it is in the public interest to hold a public hearing regarding the notice of intent. Upon making such a determination, the administrator of the division shall promptly notify the person who submitted the notice of intent that a public hearing will be held regarding the notice of intent.
3. A facility discharging any pollutant into any waters of this state must be located within:
  - (a) An area designated for water quality planning;
  - (b) A sewer district or a sewer authority;
  - (c) The political boundaries of a city or county;
  - (d) A state or county highway system; or
  - (e) Any other division or combination of boundaries deemed appropriate by the director,to be approved to operate under a general permit.
4. Discharges from a facility described in subsection 3 must:
  - (a) Involve the same or substantially similar types of operations;
  - (b) Discharge the same types of pollutants or engage in the same types of use or disposal;
  - (c) Require the same effluent limitations, operating conditions or standards for reuse or disposal;
  - (d) Contain storm water;
  - (e) Require the same or similar monitoring; or
  - (f) In the opinion of the director, be more appropriately regulated by a general permit than by an individual permit.
5. A general permit may not include a facility that holds an individual permit.  
(Added to NAC by Environmental Comm'n, eff. 3-18-92; A 10-29-97)

**NAC 445A.267 Procedures for issuance, reissuance, denial, modification, suspension or revocation of permit.** A general permit must be issued, reissued, denied, modified, suspended or revoked in accordance with the provisions of NAC 445A.261 and 445A.263 and NRS 445A.600.

(Added to NAC by Environmental Comm'n, eff. 3-18-92)—(Substituted in revision for NAC 445.1751)

**NAC 445A.268 Application for permit; request to be included in permit; fees.**

1. A general permit may be issued upon proper application by a group of dischargers whose facilities meet the requirements of NAC 445A.266. The application must include:

- (a) The name and address of the discharger;
- (b) The exact location of the discharge;
- (c) The nature of the discharge;
- (d) The name and location of the receiving waters;
- (e) The quantity and quality of the discharge; and

(f) Any other information deemed necessary by the director for the determination of whether the discharger should be included in the general permit.

2. A general permit may be issued without application if the director deems it appropriate.

3. If a general permit has been issued, a discharger who is eligible to be covered under the permit may submit a request to the director to be included in the general permit. Such a request must include the information required by subsection 1, be accompanied by a nonrefundable fee of \$200 and be signed in the manner prescribed by NAC 445A.231 for application and reporting forms. If such a request is denied because the director has determined that the discharger must be covered under an individual permit, the director must inform the holder pursuant to the provisions of NAC 445A.269.

4. A discharger will not be covered under a general permit until he has been notified by the director.

5. A discharger who is covered under a general permit shall pay to the director a nonrefundable fee of \$200 not later than July 1 of each year that the discharger is covered under that permit.

(Added to NAC by Environmental Comm'n, eff. 3-18-92; A 10-29-93)—(Substituted in revision for NAC 445.1752)

**NAC 445A.269 Notice of requirement to obtain individual permit; grant of additional time.**

1. If the holder of a general permit is required to obtain an individual permit pursuant to NRS 445A.480, the director must inform the holder of the requirement by written notice. The written notice must include:

- (a) A brief statement of the reasons for the decision to require an individual permit;
- (b) An application form for an individual permit;
- (c) The fee schedule of an application for an individual permit;
- (d) The time by which the application must be received by the department; and
- (e) A statement that coverage by the general permit expires on the effective date of the individual permit.

2. The director may grant additional time for good cause upon request by the holder of the general permit.

(Added to NAC by Environmental Comm'n, eff. 3-18-92)—(Substituted in revision for NAC 445.1753)

**NAC 445A.270 Petition for exclusion from permit; application for individual permit.**

1. Any interested person may file a written petition with the director requesting that the holder of a general permit be excluded from the general permit and be required to apply for and obtain an individual permit.

2. If a holder of a general permit has petitioned the director to be excluded from the general permit pursuant to subsection 1, he must apply for an individual permit within 30 days after he files the petition with the director.

(Added to NAC by Environmental Comm'n, eff. 3-18-92)—(Substituted in revision for NAC 445.1754)

**NAC 445A.271 Termination of applicability of permit upon issuance of individual permit.** If an individual permit is issued to a discharger otherwise subject to a general permit, the applicability of the general permit to the individual permittee is automatically terminated on the effective date of the individual permit.

(Added to NAC by Environmental Comm'n, eff. 3-18-92)—(Substituted in revision for NAC 445.1755)

**NAC 445A.272 Termination of applicability of individual permit upon inclusion in general permit.** A holder of an individual permit who is excluded from a general permit solely because he holds the individual permit may request that the individual permit be revoked and that he be included in the general permit. The applicability of the individual permit is automatically terminated upon notification by the director that the discharger is included in the general permit.

(Added to NAC by Environmental Comm'n, eff. 3-18-92)—(Substituted in revision for NAC 445.1756)

### **Corrective Action**

**NAC 445A.273 Definitions.** As used in NAC 445A.273 to 445A.2739, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445A.2731 to 445A.2737, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2731 "Corrective action" defined.** "Corrective action" means the permanent remedial action that is taken after the release of a hazardous substance, hazardous waste or regulated substance to prevent the element or chemical from posing a threat or potential threat to the present or future health of the public or to the environment.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2732 "Cost" and "costs" defined.** "Cost" or "costs" means all costs and expenses which are incurred and money which is expended by the division and reimbursed at a later date by an owner or operator.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2733 "Fee" defined.** "Fee" means an amount of money determined by the division as an estimate of the costs and expenses that will be incurred by the division pursuant to NAC 445A.273 to 445A.2739, inclusive, which is assessed in advance of expenditure by the division.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2734 "Major corrective site" defined.** "Major corrective site" means a site which:

1. Is the subject of an administrative order issued by the division or a civil action brought by the division against the owner or operator;
2. Is a treatment, storage or disposal site, or any combination thereof, as defined by federal or state law, and has been identified as having contaminated soil or ground water;
3. Is the subject of a written corrective action agreement between the division and the owner, operator or responsible federal agency or agencies; or
4. Has an estimated yearly oversight cost to the division which exceeds \$10,000, including all costs incurred by the division for the staff time required, overhead, contract support, equipment and travel.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2735 “Minor corrective action site” defined.** “Minor corrective action site” means a site:

1. At which the environmental contamination is relatively confined with minimal actual or potential impact on human health or the environment;
  2. At which an identified owner or operator is present who is working in cooperation with the division for remediation of the site;
  3. For which no civil action is pending and no administrative orders have been issued to the owner or operator;
  4. Which is not under corrective action by the division using federal funding related to leaking underground storage tanks or related state funding; and
  5. Which is not a treatment, storage or disposal site under federal law.
- (Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.2736 “Operator” defined.** “Operator” means a person who is in control of or has responsibility for the daily operation of a site, business or other operation where a hazardous substance, hazardous waste or a regulated substance is or has been disposed of, used or stored.

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.2737 “Owner” defined.** “Owner” means a person who owns property on which a hazardous substance, hazardous waste or a regulated substance is or has been disposed of, used or stored.

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.2738 Recovery of costs and fees: Minor sites; federal funding for leaking underground storage tanks; state funding.**

1. The division shall not seek to recover costs or fees for minor sites.
  2. The division shall seek to recover costs or fees for sites where federal funding for leaking underground storage tanks or state funding is used.
- (Added to NAC by Environmental Comm’n, eff. 10-3-96)

**NAC 445A.2739 Reimbursement of costs and assessment of fees: Major sites.** The division may seek reimbursement for costs or assess fees on a cooperative basis with the owner or operator for major sites as follows:

1. If the division estimates that the total time for oversight by the division will be less than 240 hours and that the time to achieve site closure will be less than one year, the division shall determine the costs or fees using the average salary of the oversight personnel including fringe benefits, indirect costs, travel costs and operating expenses.
2. If the division estimates that the total time for oversight by the division will be 240 hours or more or that the time to achieve site closure will be one year or more, the division and the owner or operator of the site may enter into a contract with a third person to provide the oversight required by the division. Before such a contract is executed, the division shall enter into a consent agreement with the owner or operator of the site. The agreement must:
  - (a) State the estimated reimbursable costs to be incurred by the division for the oversight;
  - (b) Identify the tasks to be performed by the contractor for the oversight and state the associated costs; and
  - (c) Include a provision requiring that the costs and fees included in the contract be reevaluated annually on the basis of the projected tasks for each subsequent year.
3. If the division determines that it is necessary to dedicate existing or new resources to the oversight of a site, the costs and fees for the project must be stated in a consent agreement between the division and the owner or operator. Such an agreement must include:

(a) A provision which identifies the number of employees of the division and the type of skills that they must possess;

(b) The salary, fringe benefits, indirect costs and all related costs of operating, travel, training and equipment for those employees, based upon the state classification system for the type of skills necessary to perform the task; and

(c) A provision requiring that the costs and fees be reevaluated annually on the basis of the projected tasks for each subsequent year.

4. If the division collects fees in excess of the expenditures actually made, the division shall apply the excess fees to reduce the amount of fees assessed in a subsequent year.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

### **Use of Treated Effluent for Irrigation**

#### **NAC 445A.275 General requirements and restrictions.**

1. A person shall not use treated effluent for irrigation unless he has:

(a) Submitted to the division and has received the approval of the division of a plan for the management of effluent; and

(b) Obtained a permit pursuant to NAC 445A.228 to 445A.263, inclusive.

2. A person using treated effluent for irrigation by flooding or sprinklers shall use effluent that has received at least secondary treatment. As used in this subsection:

(a) "Secondary treatment" means the biological oxidization of the sewage to a point where the sewage has a 5-day inhibited biochemical oxygen demand concentration of 30 milligrams per liter or less.

(b) "Five-day inhibited biochemical oxygen demand" means the amount of dissolved oxygen in milligrams per liter required during stabilization of the carbonaceous decomposable organic matter by aerobic bacterial action at 20 degrees centigrade for 5 days.

3. Any person using treated effluent for irrigation shall post a notice at the site of irrigation warning the general public to avoid contact with the treated effluent.

4. Except as otherwise provided in this subsection, a person shall not use treated effluent to irrigate crops for human consumption. A person may use treated effluent for surface irrigation of fruit bearing trees and nut bearing trees.

5. A person using treated effluent to irrigate by sprinklers shall conduct the irrigation in a manner which inhibits the treated effluent from drifting or carrying outside the buffer zone.

6. A person shall not allow treated effluent used in irrigation to run off the site being irrigated.

(Added to NAC by Environmental Comm'n, eff. 9-13-91)—(Substituted in revision for NAC 445.176)

#### **REVISER'S NOTE.**

The regulation of the state environmental commission filed with the secretary of state on September 13, 1991, the source of NAC 445A.275 to 445A.280, inclusive, became effective on that date and contains the following provisions not included in NAC:

"Notwithstanding the provisions of sections 2 to 8, inclusive, of this regulation, a person who:

1. Is using treated effluent for irrigation on the effective date of this regulation without having obtained a permit pursuant to NAC 445A.228 to 445A.263, inclusive; and

2. Has submitted to the state department of conservation and natural resources a completed application for obtaining a permit pursuant to NAC 445A.228 to 445A.263, inclusive, within 180 days after the effective date of this regulation,

may continue to use treated effluent for irrigation without having obtained a permit until the state department of conservation and natural resources takes action upon the application for a permit."

**NAC 445A.276 Spray irrigation: Requirements for bacteriological quality and buffer zone limitations.**

1. Treated effluent being used for spray irrigation must meet the following requirements for bacteriological quality and buffer zone limitations:

	Fecal Coliform			
	c.f.u. or mpn/100 ml			
Reuse Permitted	A	A(1)	B	C
30-day geometric mean	No Limit	200	23	2.2
Maximum daily number	No Limit	400	240	23
Minimum Buffer Zone (Feet)	800	400	100	0

2. As used in this section:

(a) Category "A" means irrigation with treated effluent of land used for:

(1) Pasture; or

(2) Other agricultural purposes except growing crops for human consumption, where public access to the site being irrigated is prohibited. Treated effluent being used for activities falling within category A must meet the requirements for bacteriological quality and buffer zone limitations identified in subsection 1 as applicable to category A or meet the requirements for bacteriological quality and buffer zone limitations identified in subsection 1 as applicable to category A(1).

(b) Category "B" means irrigation with treated effluent of land used for:

(1) A golf course, cemetery or greenbelt where public access to the site being irrigated is controlled and human contact with the treated effluent does not occur;

(2) An impoundment where all activities are prohibited and human contact with the treated effluent does not occur; or

(3) Any combination of a use listed in paragraph (a) and a use listed in subparagraph (1) or (2) of this paragraph.

Treated effluent being used for activities falling within category B must meet the requirements for bacteriological quality and buffer zone limitations identified in subsection 1 as applicable to category B.

(c) Category "C" means irrigation with treated effluent of land used for:

(1) A cemetery, highway median, greenbelt, park, playground or residential or commercial lawn where public access to the site being irrigated is controlled and human contact with the treated effluent cannot reasonably be expected;

(2) Impoundments where full body contact with the treated effluent cannot reasonably be expected;

(3) Any other purpose not included in category A or B; or

(4) Any combination of an activity listed in paragraph (a) or (b) and an activity listed in subparagraph (1), (2) or (3) of this paragraph.

Treated effluent being used for activities falling within category C must meet the requirements for bacteriological quality and buffer zone limitations identified in subsection 1 as applicable to category C.

(d) “C.f.u. or mpn/100 ml” means colony forming units or most probable number per 100 milliliters of the treated effluent.

(Added to NAC by Environmental Comm’n, eff. 9-13-91)—(Substituted in revision for NAC 445.1765)

**NAC 445A.277 Exceptions to requirements for buffer zone and control of public access.** A buffer zone and control of public access is not required where treated effluent is used for irrigation of land used for a cemetery, golf course, greenbelt, impoundment where full body contact can reasonably be expected, park, playground or commercial or residential lawn, if the treated effluent:

1. Has a total coliform concentration of 2.2, or less, per 100 milliliters of the treated effluent as a 30-day geometric mean; and

2. Has a total coliform concentration of 23, or less, per 100 milliliters of the treated effluent as a maximum daily number.

(Added to NAC by Environmental Comm’n, eff. 9-13-91)—(Substituted in revision for NAC 445.177)

**NAC 445A.278 Drip or surface irrigation of landscape: Minimum level of disinfection.** The minimum level of disinfection for drip irrigation of landscape and surface irrigation of landscape with treated effluent in areas where public access is controlled is 200 fecal coliform per 100 milliliters of the treated effluent as a 30-day geometric mean and 400 fecal coliform per 100 milliliters of the treated effluent as a maximum daily number.

(Added to NAC by Environmental Comm’n, eff. 9-13-91)—(Substituted in revision for NAC 445.1775)

**NAC 445A.279 Determining quality of effluent: Storage reservoirs excluded from treatment process.** For the purpose of determining the quality of effluent, storage reservoirs do not constitute part of the treatment process.

(Added to NAC by Environmental Comm’n, eff. 9-13-91)—(Substituted in revision for NAC 445.178)

**NAC 445A.280 Waiver or modification of requirements.** The director may waive compliance with or modify any requirement of NAC 445A.275 to 445A.280, inclusive, for a specific project of irrigation upon his determination that because of the size, type or location of the project of irrigation, the waiver or modification is consistent with the policy set forth in NRS 445A.305.

(Added to NAC by Environmental Comm’n, eff. 9-13-91)—(Substituted in revision for NAC 445.1785)

## **Treatment Works**

**NAC 445A.283 Permit required to construct, install, expand or modify treatment works.** No person without first obtaining a permit from the department may:

1. Construct, install, expand or significantly modify any factory, mill, plant or other industrial or commercial facility which will result in a discharge not authorized by an existing permit to waters of the state.
2. Add extensions to existing municipal or privately owned sewer systems or provide new sewer service to existing or newly constructed buildings which could cause the raw sewage influent to the treatment plant to exceed the limits prescribed by the permit issued in accordance with NAC 445A.228 to 445A.263, inclusive.
3. Construct, install or significantly modify any facilities designed or used for treatment or discharge of pollutants.

[Environmental Comm'n, Water Pollution Control Reg. §§ 3.1.1-3.1.3, eff. 5-2-78]—  
(Substituted in revision for NAC 445.179)

**NAC 445A.284 Design and construction of treatment works.**

1. In reviewing the design of treatment works, the department shall use as guidelines the applicable requirements of "Ten State Standards," appropriate American Society of Civil Engineers Manual of Engineering Practice or federal or other accepted engineering guidelines.
2. As a minimum, sewerage system designs must be based on 100 gallons (378.5 liters) per person per day and 3.5 persons per lot or dwelling unit and peak flows, unless the design engineer can demonstrate validity of other design criteria derived from existing records of the sewerage authority for an area of like development on the system or from the general plan of the local government.
3. Complete engineering plans and specifications prepared by a qualified professional engineer, authorized under state law to prepare such plans and specifications, must be submitted, covering such items as sewage collection, treatment and disposal and all other matters properly relating thereto.
4. If a discharge to the waters of the state is proposed, the design of the treatment works must ensure compliance with the appropriate provisions of NAC 445A.228 to 445A.263, inclusive.

[Environmental Comm'n, Water Pollution Control Reg. §§ 3.2.1-3.2.4, eff. 5-2-78]—  
(Substituted in revision for NAC 445.180)

**NAC 445A.285 Location of treatment works.**

1. In locating the site for a treatment works, the designer shall attempt to select a site that is not:
  - (a) Within 984.3 feet (300 meters) of an occupied dwelling or other building.
  - (b) Within the limits of a 100-year flood plain unless protected from the flood to the satisfaction of the department.

2. No site may be approved by the department without having first been approved by local government.

[Environmental Comm'n, Water Pollution Control Reg. §§ 3.3.1-3.3.2, eff. 5-2-78]—  
(Substituted in revision for NAC 445.181)



**NAC 445A.286 Plants for sewage treatment: Applicability of provisions. (NRS 445A.425)** The provisions of NAC 445A.287 to 445A.292, inclusive, do not apply to:

1. A package plant for sewage treatment with a capacity of 5,000 gallons or less per day; or
2. Any other plant for sewage treatment, including, without limitation, a septic system, with a capacity of 10,000 gallons or less per day.

(Added to NAC by Environmental Comm'n, eff. 5-27-92; A by R037-02, 10-18-2002)

**NAC 445A.287 Plants for sewage treatment: Persons required to be certified as operators; application and fees for certification; renewal of certificate. (NRS 445A.425)**

1. A person responsible for the operation and maintenance of a plant for sewage treatment must be certified as an operator of a plant for sewage treatment.
2. To apply for certification as an operator of a plant for sewage treatment, a person must submit an application to the division or its approved designee that is accompanied by the appropriate fee.
3. The following fees must be paid to the division:

Certification	Fee	Period
Initial	\$60	2 years
Reciprocal	75	2 years

4. The holder of a certificate must pay to the division a fee of \$20 for each duplicate certificate he requests. A fee of \$25 will be charged to any person whose check is returned to the division because of a lack of funds.

5. A holder of any certificate issued pursuant to the provisions of NAC 445A.286 to 445A.292, inclusive, may renew the certificate by submitting a fee of \$30 to the division not later than the expiration date of the certificate. Except as otherwise provided in subsection 6, the holder of a certificate may renew his certificate after the expiration date of the certificate if he pays, in addition to the renewal fee, a late fee of \$20. If the holder of a certificate does not renew the certificate within 1 year after the expiration date of the certificate, the holder of the certificate shall be deemed decertified.

6. The holder of a certificate who is decertified may not renew his certificate.

7. The renewal of a certificate is effective for 2 years.

(Added to NAC by Environmental Comm'n, eff. 5-27-92; A 3-1-94; R037-02, 10-18-2002)

**NAC 445A.288 Plants for sewage treatment: Agreement to operate program for certification of operators. (NRS 445A.425)**

1. If the division chooses not to operate the program for the certification of operators of plants for sewage treatment, the division shall enter into an agreement with an approved designee pursuant to which the designee agrees to operate the program.

2. Any agreement entered into pursuant to subsection 1 must provide that the designee will:

- (a) Distribute application forms;
- (b) Evaluate applications;

- (c) Conduct examinations;
  - (d) Evaluate the training, education and experience of the applicants;
  - (e) Inform an applicant that the division has denied his application for certification or recommend that the division certify the applicant; and
  - (f) Perform any other duty specified in the agreement.
- (Added to NAC by Environmental Comm'n, eff. 5-27-92; A by R037-02, 10-18-2002)

**NAC 445A.289 Plants for sewage treatment: Schedule for classification. (NRS 445A.425)**

1. For the purpose of the certification program operated pursuant to the provisions of NAC 445A.284 and 445A.288, a plant for sewage treatment must be classified in accordance with the following schedule:

PLANT CLASSIFICATION based on the type of treatment process and plant capacity:

	0-0.1 MGD	0.11-1.0 MGD	1.1-5.0 MGD	5.1-10.0 MGD	10.1- 20.0 MGD	Greater than 20.0 MGD
Stabilization Pond	I	I	I	I	II	III
Primary	I	I	II	III	III	IV
Biofiltration	II	II	III	III	IV	IV
Activated Sludge	III	III	III	IV	IV	IV
Tertiary and Reuse	III	III	IV	IV	IV	IV

2. As used in this section, "MGD" means millions of gallons per day.

(Added to NAC by Environmental Comm'n, eff. 5-27-92; A by R037-02, 10-18-2002)

**NAC 445A.290 Plants for sewage treatment: Minimum grades of certification for operators. (NRS 445A.425)**

The minimum grades of certification for operators of plants for sewage treatment are as follows:

1. The minimum grades of certification for operators of plants for sewage treatment are as follows:

GRADES OF CERTIFICATION based on the classification of the plant:

	Plant Classification I	Plant Classification II	Plant Classification III	Plant Classification IV
Supervisor	I	II	III	IV
Assistant Supervisor	I	I	II	III

2. Any person, other than a supervisor or assistant supervisor, who is working as an operator of a plant for sewage treatment must be certified as at least a Grade I operator of a plant for sewage treatment, or obtain such certification within 1 year after the date on which he begins his employment at the plant for sewage treatment as such an operator.

3. As used in this section:

(a) "Assistant supervisor" means the person in direct responsible charge of the operations of a plant for sewage treatment in the absence of the supervisor.

(b) "Person in direct responsible charge" means a person who is responsible for all activities associated with the operations of a plant for sewage treatment and compliance with all applicable provisions of NRS and NAC relating to the operations of such a plant.

(c) "Supervisor" means the person in direct responsible charge of the operations of a plant for sewage treatment.

(Added to NAC by Environmental Comm'n, eff. 5-27-92; A by R037-02, 10-18-2002)

**NAC 445A.292 Plants for sewage treatment: Provisional certification of operator. (NRS 445A.425)**

1. The division shall renew a provisional certificate as an operator of a plant for sewage treatment, without examination, only to a person who:

- (a) Held a provisional certificate on July 1, 1991;
- (b) Pays the appropriate fee; and
- (c) Submits the proper application for certification.

2. A provisional certificate is valid until:

- (a) The applicant's employment by that plant ceases for any reason; or
- (b) The applicant assumes a position of employment at the plant that is different from the position he held on July 1, 1991.

(Added to NAC by Environmental Comm'n, eff. 5-27-92; A by R037-02, 10-18-2002)

**Zones of Mixing**

**NAC 445A.295 Purpose.** A zone of mixing for the assimilation of municipal, agricultural and industrial discharges from point sources which have received the best degree of treatment or control practicable under existing technology is recognized as necessary. The purpose of this limited zone is to provide for a current realistic means of control over such discharges and at the same time achieve the highest attainable level of water quality.

[Environmental Comm'n, Water Pollution Control Reg. § 4.1.2 subsec. h par. 1, eff. 5-2-78; A 7-2-80]—(Substituted in revision for NAC 445.187)

**NAC 445A.296 Application.**

1. Every application for a zone of mixing must:

(a) Be made to the director and be accompanied by a complete and detailed description of the present physical, chemical, biological and radiological conditions of the receiving waters and of the proposed zone of mixing.

(b) Include a demonstration that no violation of water quality standards occurs at any point designated by the director and no appreciable harm to beneficial uses, either designated or actual, will result from the proposed zone of mixing and such other information as the director may prescribe.

(c) Identify, by discharge, the individual water quality parameters for which the zone of mixing is requested.

(d) Be submitted along with an application for a discharge permit or a request for modification of a discharge permit.

2. A separate permit is not issued for mixing zones. All requirements and authorizations must be part of a discharge permit issued or reissued pursuant to NAC 445A.228 to 445A.263, inclusive. The fact sheet required by NAC 445A.236 must contain a summary of data from which the zone of mixing was determined.

[Environmental Comm'n, Water Pollution Control Reg. § 4.1.2 subsec. h pars. 2 & 9, eff. 5-2-78; A 7-2-80]—(Substituted in revision for NAC 445.188)

**NAC 445A.297 Review of application by director.**

1. Each application for a zone of mixing must be reviewed in light of the descriptions, statements, plans, histories and other supporting information.

2. The review must result in a determination by the director concerning the appropriateness of a zone of mixing for each water quality parameter, by discharge, identified in the application.

3. Zones of mixing must not be granted by the director unless the applicant and supporting information clearly demonstrate that the discharge occurring or proposed to occur:

- (a) Does not substantially endanger human health or safety;
- (b) Will assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife in and on that body of water; and
- (c) Will not cause a violation of water quality standards at any point designated by the director.

[Environmental Comm'n, Water Pollution Control Reg. § 4.1.2 subsec. h pars. 3 & 5, eff. 5-2-78; A 7-2-80]—(NAC A 11-1-95)

**NAC 445A.298 Establishment by director.**

1. The director shall establish a zone of mixing so that the standards for quality of water for individual parameters determined to be appropriate pursuant to subsection 1 of NAC 445A.297 for the receiving water, but in no case including esthetic and acute toxicity values, may be relaxed within the zone of mixing.

2. In determining the size of a zone of mixing, each application must be reviewed on a case-by-case basis taking into consideration the quality of effluent of waste water discharged and the nature and condition of the receiving water, including the effects of the effluent or waste water on the designated or actual beneficial uses of the receiving water and standards for quality of water.

[Environmental Comm'n, Water Pollution Control Reg. § 4.1.2 subsec. h par. 4, eff. 5-2-78; A 7-2-80]—(Substituted in revision for NAC 445.190)

**NAC 445A.299 Zone of passage.** Stream-mixing zones in which the standards for water quality may be exceeded must be designed to ensure that a zone of passage is maintained. The allowable stream-mixing zone must be oriented in the stream in a manner which permits the greatest effectiveness of the zone of passage.

[Environmental Comm'n, Water Pollution Control Reg. § 4.1.2 subsec. h par. 6, eff. 5-2-78]—(Substituted in revision for NAC 445.191)

**NAC 445A.300 Periodic review.** The director shall periodically review all zones of mixing and may terminate or modify any such zones for which the conditions of approval of the zone of mixing have changed.

[Environmental Comm'n, Water Pollution Control Reg. § 4.1.2 subsec. h par. 10, eff. 5-2-78; A 7-2-80]—(Substituted in revision for NAC 445.192)

**NAC 445A.301 Termination.** The zone of mixing automatically terminates at the expiration of the period in the designation and no rights vest in the designee unless an application for renewal of a zone of mixing has been made.

[Environmental Comm'n, Water Pollution Control Reg. § 4.1.2 subsec. h par. 8, eff. 5-2-78; A 7-2-80]—(Substituted in revision for NAC 445.193)

**NAC 445A.302 Renewal.**

1. Any zone of mixing may be granted or renewed for periods not exceeding 5 years.
2. Applications for renewal:
  - (a) Must be made before the expiration of the period concerning the zone of mixing.
  - (b) May be granted by the director if the application for renewal has met all of the conditions specified for the immediately preceding zone of mixing granted pursuant to NAC 445A.295 to 445A.302, inclusive.

[Environmental Comm'n, Water Pollution Control Reg. § 4.1.2 subsec. h par. 7, eff. 5-2-78; A 7-2-80]—(Substituted in revision for NAC 445.194)

### **Diffuse Sources**

**NAC 445A.305 Definitions.** As used in NAC 445A.305 to 445A.340, inclusive, unless the context otherwise requires, the words and terms defined in NRS 445A.315 to 445A.370, inclusive, in NRS 445A.380 to 445A.420, inclusive, and in NAC 445A.306 to 445A.312, inclusive, have the meanings ascribed to them in those sections.

[Environmental Comm'n, Diffuse Source Control Reg. part Art. 1, eff. 10-16-80]—(Substituted in revision for NAC 445.199)

**NAC 445A.306 “Best practices” defined.** “Best practices” means measures, methods of operation or practices which are reasonably designed to prevent, eliminate or reduce water pollution from diffuse sources and which are consistent with the best practices in the particular field under the conditions applicable. This term is intended to be equivalent to the term “best management practices” as used in federal statutes and regulations.

[Environmental Comm'n, Diffuse Source Control Reg. § 1.1, eff. 10-16-80]—(Substituted in revision for NAC 445.200)

**NAC 445A.307 “Conservation district” defined.** “Conservation district” has the meaning ascribed to it in NRS 548.032.

[Environmental Comm'n, Diffuse Source Control Reg. § 1.2, eff. 10-16-80]—(Substituted in revision for NAC 445.201)

**NAC 445A.308 “Conservation plan” defined.** “Conservation plan” means a plan prepared in cooperation with or reviewed by a conservation district, which addresses the use, maintenance or improvement of soil, water and plant resources of the land covered by the plan.

[Environmental Comm'n, Diffuse Source Control Reg. § 1.3, eff. 10-16-80]—(Substituted in revision for NAC 445.202)

**NAC 445A.309 “Diffuse source” defined.** “Diffuse source” includes:

1. Agricultural activity, including return flows from irrigation;
2. Silvicultural activity;
3. Mining activity;
4. Construction of buildings, roads, dams, utility lines or other improvements or facilities;
5. Runoff from roads, streets and railroads;
6. Construction or use of recreational trails;

7. Modification of water courses or stream channels; and
8. Runoff from urban areas.

[Environmental Comm'n, Diffuse Source Control Reg. § 1.4, eff. 10-16-80]—  
(Substituted in revision for NAC 445.203)

**NAC 445A.310 “Municipality” defined.** “Municipality” means a county or incorporated city.

[Environmental Comm'n, Diffuse Source Control Reg. § 1.5, eff. 10-16-80]—  
(Substituted in revision for NAC 445.204)

**NAC 445A.311 “Panel” defined.** “Panel” means a body consisting of three or more members appointed by the commission from its own membership to consider and decide appeals made to the commission under NAC 445A.305 to 445A.340, inclusive.

[Environmental Comm'n, Diffuse Source Control Reg. § 1.6, eff. 10-16-80]—  
(Substituted in revision for NAC 445.205)

**NAC 445A.312 “Resources management plan” defined.** “Resources management plan” means a plan which is prepared by a federal agency administering land in consultation with the state or a municipality and which is reasonably designed to prevent, eliminate or reduce water pollution from diffuse sources resulting from the use, maintenance or improvement of soil, water and plant resources.

[Environmental Comm'n, Diffuse Source Control Reg. § 1.7, eff. 10-16-80]—  
(Substituted in revision for NAC 445.206)

**NAC 445A.313 Exemptions.**

1. NAC 445A.305 to 445A.340, inclusive, does not require any person to remedy, control or correct any nonconformance with standards for water quality which results exclusively from natural rather than man-made causes.

2. The following activities are not subject to the provisions of NAC 445A.305 to 445A.340, inclusive:

- (a) Home gardening, landscaping, repairs and maintenance;
- (b) Connection of utility services for single dwellings;
- (c) Installation of fences and sign posts;
- (d) Installation and maintenance along existing roadways of overhead transmission lines for telephones, telegraph and cable television and of electric transmission lines of a design capacity of less than 200 kilovolts; and
- (e) Emergency work to protect persons or property.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 6.3.1 & 6.3.2, eff. 10-16-80]—(Substituted in revision for NAC 445.207)

**NAC 445A.314 Administration of controls: Delegation of authority to city or county.**

1. If the director delegates authority to a county but not to a city within it, the county has authority throughout the entire area within its boundaries unless otherwise specified in its letter of request.

2. If the director delegates authority to the city but not to the county in which the city is located, the division shall assume administration of the program throughout the county exclusive of the city or portion of the city for which the delegation is made by the director.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 2.3.3 & 2.3.4, eff. 10-16-80]—(Substituted in revision for NAC 445.208)

**NAC 445A.315 Administration of controls by municipality: Written request to director.**

1. A municipality seeking to administer the department's controls of diffuse sources must submit a written request, specifying the personnel, their qualifications and the estimated annual budget to be committed to the program by the municipality. The request must be addressed to the director by registered or certified mail.

2. The director shall inform the municipality of his decision within 30 days after the receipt of the letter by the department.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 2.3.1 & 2.3.2, eff. 10-16-80]—(Substituted in revision for NAC 445.209)

**NAC 445A.316 Administration of controls by municipality: Jurisdiction.** The municipality may apply specific measures of control only for those surface waters within its jurisdiction in which pollution from a diffuse source has been determined to contribute to a violation of standards for water quality.

[Environmental Comm'n, Diffuse Source Control Reg. § 3.1.6, eff. 10-16-80]—(Substituted in revision for NAC 445.210)

**NAC 445A.317 Administration of controls by municipality: Determination of water pollution.**

1. If a municipality has been delegated authority to administer controls of diffuse sources, it must establish a program to administer the controls. The municipality may proceed with the administration only if its governing body or the division first determines that there exists within or originates from the territory of the municipality water pollution from one or more diffuse sources and the pollution contributes to a violation of standards for water quality.

2. Such a determination must be based on the results of surveying, sampling or testing the affected surface waters or pursuant to a written complaint by any person filed with the municipality and proof of damage to him caused by pollution of those waters from a diffuse source. Any similar complaint filed with the division or other state agency must be immediately referred to the appropriate municipality for prompt investigation and disposition.

3. The municipality must determine the person who is responsible for each diffuse source of water pollution. The determination must be made by a resolution of the governing body. If necessary, further surveying, sampling and testing of the affected water and watershed may be made before the determination.

4. To the extent feasible, the division shall, upon written request, furnish a municipality with technical assistance in determining the existence of such water pollution.

5. If the division makes such a determination, it shall send a written notice of the determination, by registered or certified mail, to the governing body of the municipality.

6. If the governing body is aggrieved by the determination of the division, the governing body may appeal to the commission for a hearing on the matter. Such an appeal must be in writing and filed with the commission no later than 45 days after the date on which the governing body receives the notice.

7. The commission will conduct the hearing and decide the appeal or appoint a panel to do so.

8. The decision of the commission or panel constitutes a final administrative decision.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 3.1.1-3.1.4 & 3.1.7, eff. 10-16-80]—(Substituted in revision for NAC 445.211)

**NAC 445A.318 Administration of controls by municipality: Time to begin after determination is made.**

1. A municipality must proceed to administer its program within 60 days after the date of its own determination or its receipt of notice of the division's determination.

2. If an appeal to the commission has been filed, administrative action by the municipality is stayed until 60 days after the date of the decision by the commission or panel.

3. If a judicial review is being conducted, administrative action by the municipality is stayed until a decision is rendered by the court.

[Environmental Comm'n, Diffuse Source Control Reg. § 3.1.5, eff. 10-16-80]—(Substituted in revision for NAC 445.212)

**NAC 445A.319 Administration of controls by municipality: Inspection of equipment; access to waters; notice.**

1. Whenever it is necessary to enforce the provisions of NAC 445A.305 to 445A.340, inclusive, a representative of a municipality may, upon presenting proper credentials:

(a) Enter any premises;

(b) Inspect any monitoring equipment or method; and

(c) Have access to, survey, sample and test any surface waters, within its jurisdiction for the purpose of determining the commencement, existence or degree of pollution from a diffuse source.

2. Before such an entry, at least 15 days' notice must be given to the person owning or controlling the premises. The notice must be given by personal service or sent by registered or certified mail. A mailed notice is given upon the date of mailing.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 6.1.1 & 6.1.2, eff. 10-16-80]—(Substituted in revision for NAC 445.213)

**NAC 445A.320 Administration of controls by municipality: Notice of violation; meeting with person responsible.**

1. A municipality administering controls of diffuse sources must give to any person responsible for a diffuse source which is contributing to a violation of standards for water quality a written notice specifying the nature and location of the source or activity contributing to the violation. The notice must be given by personal service or sent by registered or certified mail.

2. Within 30 days after receipt of a notice, the person responsible shall meet with a representative of the municipality to discuss his solution, which must be presented in the form of a plan of the best practices for control of water pollution from a diffuse source.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 3.3.1 & 3.3.2, eff. 10-16-80]—(Substituted in revision for NAC 445.214)

**NAC 445A.321 Administration of controls by municipality: Voluntary compliance.**

1. The municipality may provide the person responsible, upon request, with such technical assistance and information as he needs to prepare the plan of best practices for his activity or use.

2. A plan of best practices prepared under NAC 445A.305 to 445A.340, inclusive, must:

(a) Be in writing;

(b) Be formulated with consideration given to the cost effectiveness and economic effect of the proposed practices;

(c) Contain a reasonable schedule for its fulfillment;

(d) Be presented to the municipality within 6 months after the date of the meeting referred to in subsection 2 of NAC 445A.320;



- (e) Be approved in writing by the municipality; and
- (f) Be reasonably designed to prevent, eliminate or reduce the water pollution from the diffuse source.

3. If chosen by the person responsible, a locally approved conservation plan or other measure complying with the substantive requirements of this section may serve as the plan of best practices required by subsection 2.

4. The municipality must consult with the appropriate conservation district, if any, in reviewing and enforcing a plan of best practices prepared to control an agricultural diffuse source which contributes to a violation of standards for water quality adopted pursuant to NRS 445A.520.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 3.4.1-3.4.4, eff. 10-16-80]—(Substituted in revision for NAC 445.215)

**NAC 445A.322 Administration of controls by municipality: Involuntary compliance.**

1. If a person notified pursuant to subsection 1 of NAC 445A.320, fails or refuses to:
- (a) Meet with a representative of the municipality;
  - (b) Present to the municipality a required plan of best practices within the specified time; or

(c) Present to the municipality a plan of best practices which the municipality reasonably can approve, the municipality must select appropriate practices and the person responsible must carry out those practices. The municipality must notify the person in writing of the best practices selected and the date by which they must be commenced. The notice must be given by personal service or sent by registered or certified mail.

2. The person responsible must commence those practices by the date specified in the notice.

3. In the selection of the best practices to be included in a plan, the economic feasibility of the practices must be considered.

4. Except for practices selected by the person responsible for a diffuse source, the best practices contained in a plan of best practices or selected by the municipality must be taken from the state handbook of best management practices or a local handbook of best practices provided by the municipality. A practice proposed by the person responsible is acceptable if the municipality determines it to be reasonably capable of preventing, eliminating or reducing water pollution from the diffuse source.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 3.5.1-3.5.4, eff. 10-16-80]—(Substituted in revision for NAC 445.216)

**NAC 445A.323 Administration of controls by municipality: Appeal by person charged with violation.**

1. If any person who is alleged to be responsible for a diffuse source contributing to a violation of standards for water quality is aggrieved by:

- (a) The determination of the existence of or responsibility for the diffuse source;
- (b) The refusal of the municipality to approve his plan of best practices; or
- (c) The selection by the municipality of such practices or the time by which he shall commence them,

he may appeal to the governing body of the municipality for a hearing. The appeal must be in writing no later than 30 days after the date of his receipt of a notice of responsibility under subsection 1 of NAC 445A.320 if his appeal concerns the existence of or responsibility for the diffuse source, the notice of selection of best practices under subsection 1 or the refusal of his plan or selection of a plan by the municipality.

2. If the person is aggrieved by the determination of the governing body, he may appeal to the commission for a hearing on the determination. The appeal must be in writing no later than 30 days after the date on which the person received notice of the determination by the governing body. The hearing on appeal will be conducted and the matter decided by the commission or a panel of the commission and the decision constitutes a final administrative decision for the purpose of judicial review.

3. If such an appeal is made to the commission, any requirement by the municipality for action to which the person appealing is otherwise subject is automatically stayed until the decision of the commission or its panel. If such an appeal is made to the district court, any requirement by the municipality for action by the person is automatically stayed until the decision of the court.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 3.6.1-3.6.3, eff. 10-16-80]—(Substituted in revision for NAC 445.217)

**NAC 445A.324 Administration of controls by municipality: Refusal to follow approved plan; order to comply.**

1. If a person who is determined to be responsible for a diffuse source contributing to a violation of standards for water quality fails or refuses properly to carry out a plan of best practices approved or selected by the municipality pursuant to the requirements of NAC 445A.070 to 445A.340, inclusive, the municipality must issue an order for compliance. The order must specify the particular failure or refusal and prescribe the corrective action to be taken and a reasonable time for completing that action.

2. The order must be served upon the person responsible by personal service or sent to him by registered or certified mail.

3. A failure of the person to comply with the order authorizes the municipality to seek injunctive relief to enforce compliance.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 3.7.1 & 3.7.2, eff. 10-16-80]—(Substituted in revision for NAC 445.218)

**NAC 445A.325 Determination by division of new sources of water pollution.**

1. The division may, in cooperation with the appropriate municipality, survey, sample and test any surface water of the state already subject to a municipal program to determine the existence of any new or additional diffuse source of water pollution.

2. The division shall immediately report any such pollution to the municipality.

[Environmental Comm'n, Diffuse Source Control Reg. § 3.1.8, eff. 10-16-80]—(Substituted in revision for NAC 445.219)

**NAC 445A.326 New diffuse sources: Applicability of this section and NAC 445A.327 and 445A.328.** This section and NAC 445A.327 and 445A.328 apply to every municipality within the state, whether or not it has put into effect a program for control of diffuse sources.

[Environmental Comm'n, Diffuse Source Control Reg. § 3.2.7, eff. 10-16-80]—(Substituted in revision for NAC 445.220)

**NAC 445A.327 New diffuse sources: Notice to municipality required.**

1. After October 16, 1980, and except as provided in subsection 3, a person shall not commence any new land-disturbing activity or additional use of land which is likely to cause pollution from a diffuse source without first filing notice with the municipality in whose jurisdiction the activity or use is to occur.

2. The notice must be filed at least 30 days before the date of commencement of the activity or use and must specify the date of commencement, location, dimensions, nature and purpose of the activity or use.

3. The notice is not required of:
    - (a) Any farmer unless the proposed activity or use is likely to cause a violation of a standard for water quality adopted pursuant to NRS 445A.520;
    - (b) Any person whose activity or use is covered by a locally approved conservation plan or resource management plan; or
    - (c) Any person who is engaged in building, grading or forest activities and whose permit requires the use of the best practices for the control of water pollution resulting from diffuse sources.
- [Environmental Comm'n, Diffuse Source Control Reg. §§ 3.2.1-3.2.3, eff. 10-16-80]—(Substituted in revision for NAC 445.221)

**NAC 445A.328 New diffuse sources: Review of notice by municipality; recommendations.**

1. The municipality must review the notice within 30 days after its filing and advise the person filing it whether or not the use or activity is likely to cause water pollution from a diffuse source.
  2. If pollution from a diffuse source is determined likely and the municipality has commenced administration of its program of controls, it must:
    - (a) Give the person a written recommendation of the best practices for him to apply to the use or activity in order to prevent, eliminate or reduce the anticipated pollution; or
    - (b) Request the person to submit to the municipality a written plan of the best practices to accomplish that purpose.
  3. If the municipality has not commenced administration of a program of controls, it must select for the person or he must select from the state handbook of best management practices one or more appropriate practices to be applied to the activity or use.
- [Environmental Comm'n, Diffuse Source Control Reg. §§ 3.2.4-3.2.6, eff. 10-16-80]—(Substituted in revision for NAC 445.222)

**NAC 445A.329 Technical assistance.** If a municipality has insufficient resources to administer a program for control of diffuse sources, it may request and to the extent feasible may be provided technical assistance from the division. A municipality may also request technical advice, assistance and services of a conservation district or any other governmental entity within the state.

[Environmental Comm'n, Diffuse Source Control Reg. § 4.1.1, eff. 10-16-80]—(Substituted in revision for NAC 445.223)

**NAC 445A.330 Effect of provisions on division, municipality.** NAC 445A.305 to 445A.340, inclusive, does not:

1. Require the division to finance or construct any facility or structure needed to carry out a plan of best practices;
2. Affect the responsibility of a municipality to develop and enforce such best practices; or
3. Prevent the municipality from requesting that the responsibility for administering the program be returned to it if the director determines that the municipality has the necessary money and staff to administer the program effectively.

[Environmental Comm'n, Diffuse Source Control Reg. § 4.1.5, eff. 10-16-80]—(Substituted in revision for NAC 445.224)

**NAC 445A.331 Partial delegation of program to municipality.**

1. A municipality may request that the department delegate authority to it to administer a portion of the program.
2. Upon approval of a request for a partial delegation, the division shall administer its portion of the program in the same manner as would a municipality under the procedure set forth in NAC 445A.316 to 445A.328, inclusive.

3. The division shall regularly consult with the municipality during the course of the division's administration of the program.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 4.1.2-4.1.4, eff. 10-16-80]—(Substituted in revision for NAC 445.225)

**NAC 445A.332 Evaluation of program: Notification to municipality.**

1. The division shall periodically evaluate the effectiveness and efficiency of the administration of the program by a municipality.

2. If the division determines that a municipality is unable or unwilling to administer all or any portion of the program or is administering the program in an insufficient or improper manner in relation to its available resources, the division shall immediately notify the governing body by registered or certified mail of the determination, the facts upon which it is based and the means by and a reasonable period within which the problem must be remedied.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 4.2.1 & 4.2.2, eff. 10-16-80]—(Substituted in revision for NAC 445.226)

**NAC 445A.333 Evaluation of program: Remedy of problem; hearing; notice of hearing.**

1. The municipality must, within the period set by the division, remedy any problem described in subsection 2 of NAC 445A.332, by the means set forth by the division.

2. If the remedy is not effected within the period set, the division shall conduct at least one public hearing within the jurisdiction of the municipality to determine whether the division should assume administration of all or any portion of the program.

3. The division shall give 30 days' notice of the hearing by publishing a notice of it once in a newspaper circulated in the municipality.

4. The division shall also give the governing body 30 days' notice of the hearing by registered or certified mail. The mailed notice is given upon the date of mailing. The notice must specify the date, place and time of the hearing as well as the subject matter to be considered.

5. After the public hearing, if the division determines that it is necessary for it to administer all or a portion of the program, it shall commence to do so as soon as is reasonably practicable.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 4.2.3-4.2.7, eff. 10-16-80]—(Substituted in revision for NAC 445.227)

**NAC 445A.334 Evaluation of program: Appeal.**

1. If the municipality is aggrieved by the determination of the division, it may appeal to the commission for a hearing on the matter. Such an appeal must be submitted in writing to the commission no later than 30 days after the date of receipt by the governing body of written notice of the division's determination.

2. The hearing on appeal will be conducted and the matter decided by the commission or the panel. The decision is a final administrative decision for purposes of judicial review.

3. During such an appeal, the administration of all or any portion of the program by the division is automatically stayed until 30 days after the date of decision of the commission or panel. If there is a judicial review of that decision, the division's administration is automatically stayed until the court renders its decision.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 4.2.8-4.2.10, eff. 10-16-80]—(Substituted in revision for NAC 445.228)

**NAC 445A.335 Resumption of administration by division; return of administration to municipality.**

1. If the division resumes the administration of all or any portion of the program as a result of such a proceeding, the municipality must make available all of its records pertaining to its previous administration of the program or the pertinent portion thereof. During the course of the division's administration, after such a resumption, it shall regularly consult with the municipality.

2. At any time after such a resumption, the division may return all administration to the municipality upon its written assurance that if the administration is returned, it will be adequate and proper. The assurance must be accompanied by a detailed plan for effective administration of all or the pertinent portion of the program.

3. If the division finds that the assurance and plan are adequate, it shall promptly return administration of the program or the pertinent portion thereof, with the related records to the municipality.

4. If the division finds that the assurance or plan is inadequate, it shall so advise the municipality in writing, whereupon the municipality may appeal to the commission in the manner prescribed in NAC 445A.323.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 4.2.11-4.2.14, eff. 10-16-80]—(Substituted in revision for NAC 445.229)

**NAC 445A.336 State handbook of best management practices.**

1. The state handbook of best management practices, prepared by the state conservation commission, must be presented to the commission for adoption and use in carrying out the provisions of NAC 445A.305 to 445A.340, inclusive. The commission may include, as a part of the handbook for the purposes of those sections additional appropriate practices for control of pollution from diffuse sources.

2. The division shall ensure that the handbook is reviewed every 2 years and revised as necessary. The division will consult with the state conservation commission in such review and revision.

3. The governing body of any municipality which administers controls of diffuse sources shall prepare and make available a local handbook of best practices for control of diffuse sources. The local handbook must be consistent with the state handbook of best management practices.

4. The local handbook must be designed to meet the particular conditions prevalent in the jurisdiction.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 5.1.1-5.1.4, eff. 10-16-80]—(Substituted in revision for NAC 445.230)

**NAC 445A.337 Local handbooks of best management practices.**

1. The governing body shall prepare its first local handbook within 6 months after its receipt of a copy of the state handbook from the commission.

2. Revisions to the local handbook, other than those proposed by the governing body, must be made as soon as is reasonably practicable, but not later than 6 months after each set of revisions to the state handbook is received from the commission.

3. The municipality must consult with conservation districts within its jurisdiction for assistance in preparing the portion of the local handbook concerning agricultural diffuse sources.

4. A municipality must use the state handbook until it has prepared its local handbook.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 5.1.5-5.1.8, eff. 10-16-80]—(Substituted in revision for NAC 445.231)

**NAC 445A.338 Memoranda of understanding.**

1. To ensure proper compliance with the provisions of NAC 445A.305 to 445A.340, inclusive, a municipality having delegated authority to control diffuse sources may execute memoranda of understanding with federal and state agencies operating within its jurisdiction.

2. A copy of each such memorandum must be sent to the director no later than 10 days after it is executed or adopted.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 6.2.1 & 6.2.2, eff. 10-16-80]—(Substituted in revision for NAC 445.232)

**NAC 445A.339 Permit to construct or grade.**

1. As a condition of the issuance and validity of any permit or other authorization for construction or grading, a county or city must require that practices be used to prevent, eliminate or reduce water pollution from any diffuse source during the activity.

2. Appropriate practices must be selected from the state or local handbook of best practices.

3. A person who has received a permit or other authorization pursuant to subsection 1 is exempt from compliance with NAC 445A.326, 445A.327 and 445A.328.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 7.1.1–7.1.3, eff. 10-16-80]—(Substituted in revision for NAC 445.233)

**NAC 445A.340 Logging permits and certificates for timberland conversion.**

1. All logging permits and timberland conversion certificates issued by the state forester firewarden, must, as a condition for issuance and validity thereof, require the use of practices to prevent, eliminate or reduce water pollution from diffuse sources.

2. These practices must be selected from the state handbook of best management practices.

3. Any person who has received a permit or certificate pursuant to subsection 1 is exempt from compliance with NAC 445A.326, 445A.327 and 445A.328, for purposes of the use or activity authorized by that permit or certificate.

[Environmental Comm'n, Diffuse Source Control Reg. §§ 7.2.1-7.2.3, eff. 10-16-80]—(Substituted in revision for NAC 445.234)

**Subdivision of Land**

**NAC 445A.342 Fees for review of tentative and final maps.**

1. A nonrefundable fee in an amount equal to \$100 plus \$1 for each lot included in the map must accompany each tentative map submitted to the division for review pursuant to NRS 278.335.

2. A nonrefundable fee of \$50 must accompany each final map submitted to the division for approval in accordance with NRS 278.377.

3. The division shall not consider any such map which is submitted for review or approval without the applicable fee.

(Added to NAC by Environmental Comm'n, eff. 9-13-91)—(Substituted in revision for NAC 445.235)

## **Notification of Release of Pollutant**

**NAC 445A.345 Definitions.** As used in NAC 445A.345 to 445A.348, inclusive, unless the context otherwise requires:

1. "Facility" means any:
  - (a) Building, structure, installation, equipment, pipe, including the pipe into a sanitary or storm sewer or publicly owned treatment works, pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, container for storage, tank or underground tank for storage;
  - (b) Site or area where a hazardous substance, pollutant or contaminant has been deposited, stored, disposed of, placed or otherwise located; or
  - (c) Motor vehicle, rolling stock or aircraft or any vessel used as a means of transportation on water.
2. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping or disposing into the environment.  
(Added to NAC by Environmental Comm'n, eff. 7-22-87)—(Substituted in revision for NAC 445.238)

**NAC 445A.346 Applicability.** NAC 445A.345 to 445A.348, inclusive, do not apply to:

1. Any release resulting in exposure to an employee solely within an indoor place of employment for which the employee may assert a claim against his employer.
2. Emissions from the exhaust of the engine of a motor vehicle, the rolling stock of a railroad, an aircraft, a vessel or pipeline pumping station.
3. Release of source, by-product or special nuclear material resulting from the operation of a production or utilization facility as defined in the Atomic Energy Act of 1954, and which is subject to the regulatory authority of the Nuclear Regulatory Commission.
4. Any activity or substance which is subject to regulation pursuant to NRS 459.010 to 459.290, inclusive.
5. The normal application of fertilizers or pesticides.
6. Any release that complies with the limits or conditions of a permit issued by the state of the Federal Government.  
(Added to NAC by Environmental Comm'n, eff. 7-22-87)—(Substituted in revision for NAC 445.239)

### **NAC 445A.347 Notice required. (NRS 459.485)**

1. Any person who owns or operates a facility or his designated agent shall notify the director as soon as possible after he has knowledge of a release described in subsection 2 that involves his facility, but not later than the end of the first working day after the release. The notice must be by telephone at (800) 992-0900, extension 4670 or (775) 687-4670.
2. The following are subject to the notice requirements of subsection 1:
  - (a) A release in a quantity equal to or greater than that which is required to be reported to the National Response Center pursuant to 40 C.F.R. Part 302.
  - (b) A release consisting of any quantity of pollutants, hazardous waste, as defined in NRS 459.430, or contaminants, as defined in NRS 445A.325, and the pollutant, hazardous waste or contaminant is not listed in 40 C.F.R. § 302.4.
  - (c) A release consisting of a petroleum product:
    - (1) Which is released to the soil or other surfaces of land in a quantity greater than 25 gallons; or

(2) Discovered on or in the ground water or in at least 3 cubic yards of soil during excavation of soil, subsurface exploration, monitoring of ground water or any other subsurface activity.

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 12-8-89; 10-29-93; 9-15-94; R021-99, 9-27-99)

**NAC 445A.348 Use of information in criminal prosecution.** Any notice received pursuant to NAC 445A.347 or any information obtained from the investigation of the release reported in the notice shall not be used against the person giving the notice in any criminal prosecution, unless he is prosecuted for perjury, gross negligence or the giving of a false statement related to the reported release.

(Added to NAC by Environmental Comm'n, eff. 7-22-87)—(Substituted in revision for NAC 445.241)

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